

**The Bushrangers and the Convict System of Van Diemen's Land, 1803-  
1846.**

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1990**



I confirm that this thesis is entirely my own work and has been composed by me.

Hamish Maxwell-Stewart.

(Forthcoming publications which incorporate material included in this thesis:  
'Reckoning with Convict Workers: The Gaoled and Vandemonian Gaolers', *Working  
Papers in Australian Studies*, No.62 (Centre for Australian Studies, University of  
London, 1990).

## **Abstract.**

The thesis seeks to examine the nature of the Australian transportation system through an assessment of the records of 330 convicts transported between 1800 and 1845. These individuals were selected on the basis of their colonial experience: they all absconded from their place of servitude and spent a period of time illegally at large under-arms. Known generically as the bushrangers of Van Diemen's Land, these convicts have maintained a high profile in Australia's historical tradition. However, few attempts have been to distinguish between the mythical elements of that tradition and the reality of convict bushranging.

Chapter One is reserved for an assessment of the historiography of bushranging. Chapter Two examines the convicts in the data set in terms of their human capital. It is argued that the stereotype of the bushranger prevalent in the literature is not supported by an analysis of the convict indents. It is maintained that the bushrangers were representative of the convicts who arrived in Van Diemen's Land over the period of the study. The chapter assesses the potential utility of the bushrangers as unfree workers. Chapter Three examines the economic rationale of transportation. It seeks to investigate its origins and apply recent developments in the literature of unfree labour to Van Diemen's Land. In particular, three key areas of the economy are addressed: the operation of the labour market; the labour extraction process and the allocation of unfree workers to job openings. Chapter Four tests the theoretical approach adopted in the previous chapter and provides an interpretation of the interaction between convicts, private employers and the state. The purpose of Chapter Five is to make a critical assessment of previous attempts to locate convict bushranging within the political economy of early white Australia. It will demonstrate the shortcomings of previous studies in this area and outline a fresh approach. Chapter Six will explore this theme in greater depth. Drawing on the findings of the previous chapters it will provide a new analysis of bushranging which throws fresh light on the operation of the convict system in Eastern Australia.

## Preface

The presentation of this thesis marks the culmination of years of alternate exhilaration and despair. That this work has now reached the point of submission is due in no small part to the kind advice and support I have received along the way. First and foremost I must thank my supervisors, Dr Adrian Graves (formerly of the Department of Economic and Social History, University of Edinburgh, now at the University of Adelaide) and Dr Bob Morris (Department of Economic and Social History). This Ph.d. has drawn on their varied and combined skills.

I owe a very special debt of thanks to Dr Ian Duffield of the Department of History with whom many of the ideas incorporated in this work have been thrashed out. Over the course of the last four years this project has been spurred on by his boundless enthusiasm.

I must also acknowledge the tolerance and support of my fellow postgraduates, especially Maureen Young, Rory Paddock, Richard Anthony, Debbie Kemmer, Chris Ranger and John Banasik. Maureen and John were kind enough to proof drafts of this work, as were James Bradley of the Department of History and my great friend Sarah Aitken. The strengths of this work reflect their diligence, the mistakes are all of my own making.

Support was also provided by Professor Michael Anderson, Dr Roger Davidson, Dr Henry Palairret, Dr Larry Geary and Margaret Glen and Audrey Stewart. All have made my time as a postgraduate in the Department of Economic and Social History an enjoyable and rewarding experience.

In early 1988 I arrived in Tasmania on the start of what was to prove a most fruitful research trip. The success of this aspect of the project was due in no small part to the kind hospitality I received during my stay. A very special thanks is due to Professor Michael Roe and Dr Richard Davis of the Department of History, University of Tasmania, who acted as my supervisors during my leave of absence. Their shrewd advice and generosity were greatly appreciated. While working in Tasmania I received encouragement and support from many individuals. In particular, I must thank Peter Chapman, of the *Centre for Tasmania Historical Studies*, Simon Harris and Alison Alexander, all of whom freely supplied information drawn from their own research. Thanks are also due to Alex, with whom I spent many gruelling hours in the offices of



the Lands Survey Department, and Peter MacFie, who was kind enough to give me access to his unpublished work. Peter was a great source of inspiration and it was during my conversations with him that the foundations of this text were mapped out. However, this thesis would never have advanced beyond the planning stage without the expertise of the staff of the State Library and Archives Office of Tasmania. An acknowledgment seems small recompense for the assistance they provided.

A special thank you is due to my parents without whose support I would not have been able to complete this work.

Finally, I must apologise to Ina and Karl Mathiesen. In the course of writing this thesis I have been kept away from you for far too long.

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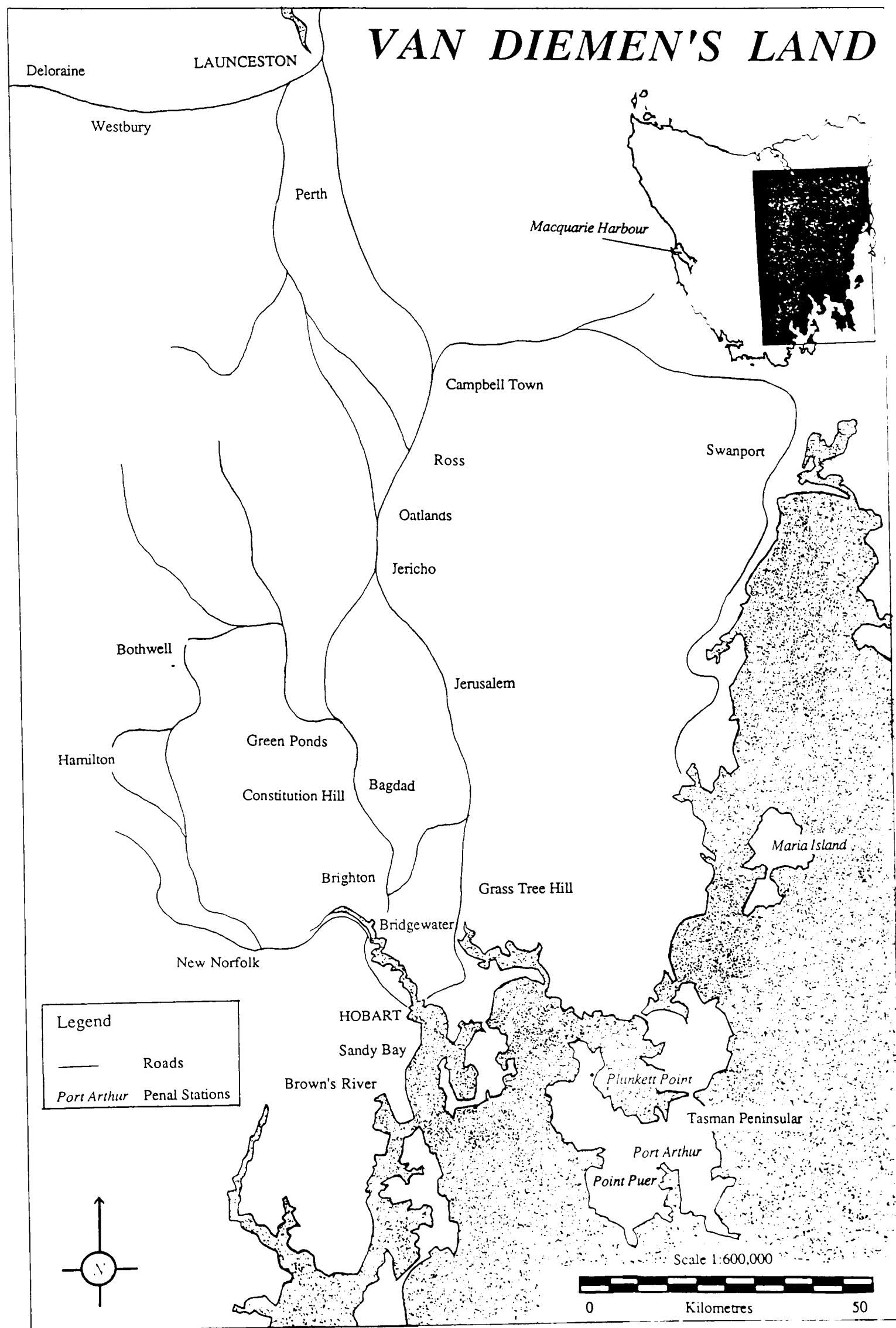
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### List of Abbreviations

<i>A.J.P.H.</i>	<i>Journal of Australian Politics and History</i>
<i>A.N.U.</i>	Australian National University
<i>A.O.N.S.W.</i>	<i>Archives office of New South Wales</i>
<i>A.O.T.</i>	<i>Archives Office of Tasmania</i>
<i>C.S.O.</i>	Colonial Secretary's Correspondence
<i>H.R.A.</i>	<i>Historical Records of Australia</i>
<i>H.T.G.</i>	<i>Hobart Town Gazette</i>
<i>J.R.A.H.S.</i>	<i>Journal of the Royal Australian Historical Society</i>
<i>N.S.W.</i>	New South Wales
<i>P.P.</i>	<i>Parliamentary Papers</i>
<i>P.R.O.</i>	<i>Public Records Office</i>
<i>S.A.</i>	South Australia
<i>S.C.</i>	Supreme Court
<i>S.V.</i>	Supplementary Volume
<i>T.S.G.</i>	<i>Tasmanian State Government</i>
<i>V.D.L.</i>	Van Diemen's Land
<i>W.A.</i>	Western Australia

N.B. All convicts in the data set are referenced as follows: name; ship; colony transported to; police No., record group and date of magistrate's hearing (where appropriate).

Plate 1.



## Chapter 1

### **Introduction: Australians and their Bushranging Past.**

The white colony in Van Diemen's Land was founded in 1803 following the discovery of the strategically important Bass Straits.<sup>1</sup> The initial settlement was limited to two small parties of convicts and marines stationed in the Derwent and Tamar estuaries. A third and much larger party under the command of David Collins was dispatched from the British Isles to the Port Phillip district of present day Victoria. This scheme to establish a British presence in the major natural harbours of the region suffered a set back when Collins, unable to locate an adequate supply of water, abandoned the settlement at Port Phillip and sailed for the Derwent. He arrived at Risdon Cove, Van Diemen's Land, on 11th. of February 1804 with a complement of nearly 300 convicts, 48 marines and an assortment of settlers, wives and children.<sup>2</sup>

Over the next fifty years the white settlement developed from this small and inauspicious start into a colony of considerable size and importance. However, the name, Van Diemen's Land, is not associated with this economic achievement but with the history of Australian convict settlement. Between, 1803 and 1853 the colony absorbed at least 67,000 convicts sentenced to transportation by civil and military courts located throughout the British Empire.<sup>3</sup> It is this aspect of the history of Van Diemen's Land, described by one recent historian as forming the "quintessence of punishment", that this project seeks to explore.<sup>4</sup>

Previous studies of Australia's convict era have hinged upon assessments of the convicts themselves and in this respect this project forms no exception.<sup>5</sup> However, as it

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<sup>1</sup> G.Rimmer, 'The Economic Growth of Van Diemen's Land 1803-1821', in G.J.Abbott and N.B.Nairn (eds.), *Economic Growth in Australia, 1788-1821*, (Melbourne University Press, Carlton, Victoria, 1969) p.328.

<sup>2</sup> M.Tipping, *Convicts Unbound, The Story of the 'Calcutta' Convicts and their Settlement in Australia*, (Viking O'Neil, Ringwood, Victoria, 1988) pp.63-66, 97-101.

<sup>3</sup> S.Nicholas and P.Shergold, 'Transportation as Global Migration' in S.Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, (Cambridge University Press, Sydney, 1988) p.30. While the geographical distribution of sentencing courts was wide and varied, the vast majority of convicts were convicted in Britain and Ireland.

<sup>4</sup> R.Hughes, *The Fatal Shore, A History of the Transportation of Convicts to Australia, 1787-1868*, (Pan Books, London, 1988) p.368.

<sup>5</sup> See, G.A.Wood, 'Convicts', *Royal Australian Historical Society Journal and proceedings*, Vol.8 (1922) pp.177-208; L.L.Robson, *The Convict Settlers of Australia: An Enquiry into the Origin and Character of the Convicts Transported to New South Wales and Van Diemen's Land 1787-1852*, (Melbourne University Press, Carlton, 1976); A.G.L.Shaw, *Convicts and the Colonies: A Study of Penal Transportation from Great Britain and Ireland to Australia and Other Parts of the British Empire*, (Faber, London, 1966); K.M.Dallas, *Trading Posts or Penal Colonies*, (Fullers Bookshop, Hobart,

would be impossible to pursue a study of all convicts transported to Van Diemen's Land within the timescale and spatial requirements of a Ph.d., the scope of this study has been limited to an examination of those prisoners contemporaries and subsequent observers termed "bushrangers".<sup>1</sup> The selection of this particular group of convicts was determined by several factors. First and foremost, any cursory reading of the secondary literature will reveal that the bushranger has assumed a symbolic position within the historiography. Thus, an analysis of the deployment of convict labour in Eastern Australia centred on the experience of the bushrangers has a wider dimension: it is also an exercise in the critical assessment of previous visions of Australia's convict era. Secondly, while allusions to convict bushrangers, and the wider phenomenon of bushranging, abound within the pages of the literature, there have been few attempts to examine either within the context of the history of transportation. While, it is not the purpose of this study to write a narrative account of the lives of Vandemonian bushrangers, the project does attempt to gain an understanding of the operation of the convict system through an analysis of the actions of the bushrangers and the responses of other convicts and administrative officials to those actions

These tasks will be pursued within a structure which follows the bushrangers own progression through the convict system. That is, the project is based around a sequence of events which commenced with conviction and sentence to transportation and ended in the guerilla warfare which plagued the administration of the island's convict system from 1805-1859.<sup>2</sup> This schema will be constructed as follows. Chapter two will establish who those convicts who subsequently became bushrangers were. To this end, the socio-economic background of the latter prior to transportation will be examined in relation to the profiles of convicts assembled by other historians. The chapter will pursue this aim in relation to that wider question "who were the convicts?". Chapter three is devoted to an analysis of transportation systems with special reference to Van Diemen's Land. Its purpose is to establish the aims and objectives of transportation and in particular the mechanics of the system in which the bushrangers were sentenced to labour. Chapter four, will employ the colonial conduct records pertaining to the

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1969); J.F.Moore, *The Convicts of Van Diemen's Land (1840-1853)*, (Cat & Fiddle Press, Hobart, Tasmania, 1976); J.B.Hirst, *Convict Society and its Enemies: A History of Early New South Wales*, (George Allen and Unwin, Sydney, 1983); Hughes, *The Fatal Shore*, first edition (Collins, London, 1987) and S.Nicholas, (ed.), *Convict Workers: Reinterpreting Australia's Past*, (Cambridge University Press, Sydney, 1988)

<sup>1</sup> Throughout the history of white Australia, the term bushranger has assumed several meanings. In the context of this study, however, the word has been employed to describe solely those convicts who escaped from their place of work and remained "out" through force of arms.

<sup>2</sup> Due to time restrictions, this project has been limited to a study of those bushrangers who operated in Van Diemen's Land prior to 1847. However, it is apparent that bushrangers operated in the island until at least 1859.



bushrangers in an analysis of inter-convict and convict/employer relations within that system. Drawing on the data entered prior to each individual's decision to rebel, it will seek to show how convicts reacted to the management techniques imposed upon them and how those techniques were modified to counter or circumvent convict resistance tactics. The overall aim of the chapter is to gain an understanding of the day to day operation of the convict system. Chapter five will examine the early history of bushranging in the island, 1805-1818. It seeks to underline the limitations of previous studies in the light of recent re-interpretations of the impact of transportation on the growth of the colonial economy. Chapter six will draw all the themes of the thesis together in an analysis of bushranging in the 1818-1846 period. Its purpose is to answer the following set of questions: why did some convicts decide to openly confront the system's administrators while others did not? How did that administration react to the ensuing challenge to its authority? How did those convicts who chose not to rebel view the actions of their fellow convicts who joined the ranks of the bushrangers? Through this analysis of bushranging, the project seeks to shed light on some of those thorny questions which have eluded the inquiries of previous historians. Notably, why did a full scale convict rebellion fail to materialise in Van Diemen's Land and how did the convict managers achieve the consensus implicit in this failure?

By way of an introduction, this chapter seeks to explore the manner in which Australians have viewed their bushranging past, a task which will be pursued in relation to the historiography of the convict era. The chapter will demonstrate that the bushranger has been adopted as both a symbol of the evils of the convict system and the embryonic "Australianess" of the nation's white founders. The resultant amalgam of visions has been highly contradictory. However, in recent years, there have been some attempts to restructure the history of bushranging. This resurgent literature has tried to break-away from the emotive characterizations which have dominated mainstream writings. In the process it has drawn heavily on the comparative literature of banditry in other societies and the chapter will conclude with a brief review of the work of the leading exponents of this challenging revision.

### **The bushranger defined.**

The first recorded Australian use of the term bushranger can be found in the *Sydney Gazette* 17 February 1805.<sup>1</sup> The word appears to have been borrowed from American

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<sup>1</sup> S.J. Baker, *The Australian Language: An Examination of the English Language and English Speech in Australia from Convict Days to the present, with Special Reference to the Growth of Indigenous Idiom and its Use by Australian Writers*, (Currawong, Sydney, 1966) p.30.

usage where it was applied to denote a skilled frontiersman. Originally this meaning was retained in Australia.<sup>1</sup> Indeed, up until the mid-1820s the term was still occasionally applied to describe those adept in bush craft.<sup>2</sup> By 1814, however, "bush-ranger" had entered official parlance to denote the ability of runaway convicts to maintain an existence outside the settled districts.<sup>3</sup> As it was generally agreed that absconders survived by plundering isolated farms and stock huts, the common usage quickly changed. Thus at least two meanings have formed, defined by the *Oxford English Dictionary* as: "An escaped convict who took refuge in the Australian 'bush'; a criminal living in the bush and subsisting by robbery and violence."<sup>4</sup> During the convict era magistrates had, by necessity, to draw a sharp distinction between the less serious crime of absconding and that of bushranging. When asked, for example, if absconding and bushranging were the same thing, James MacArthur replied to the 1837 Select Committee on Transportation, "... bushranging (as opposed to absconding) was where men having run away procure arms, and form a party who commit depredations on the road and on the stock stations."<sup>5</sup> It is this definition which has been employed by this thesis.

### **The bushranger and anti-transportationist vision.**

From an early date in Van Diemen's Land the word bushranger became interchangeable with 'banditti'; as in the settlements in Van Diemen's Land have "been infested for many years past by a bandetti (sic) of runaway convicts, who have endangered the person and property of everyone...These wretches, ... are known in the colony by the name of bushrangers..."<sup>6</sup> The word bandit is derived from the Italian *bandito*, and means someone who has been proclaimed or proscribed (from the feudal word *ban*). Since it was common practice to outlaw Australian bushrangers, the comparison is certainly valid. Yet, historically the term 'bandetti' was not deployed as a legal definition but in a pejorative sense, often in conjunction with other words, notably "wretch". Reflecting on this change of usage Turner has classified *Bushranger* as a prime example of usage "deterioration", meaning "at first any bush-dweller, later a bad one".<sup>7</sup>

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<sup>1</sup> W.S.Ramson, *Australian English, An Historical Study of the Vocabulary 1788-1898*, (Australian National University Press, Canberra, 1966) p.141.

<sup>2</sup> Baker, *The Australian Language*, p.31 and R.Langker, *The Vocabulary of Convictism in New South Wales 1788-1850*, (Australian Language Research Centre, University of Sydney, Occasional Paper No.19, 1981) p.15.

<sup>3</sup> Ramson, *Australian English*, p.141.

<sup>4</sup> *Oxford English Dictionary*, 1961 edition.

<sup>5</sup> Select Committee on Transportation, *P.P.* 1837 (518) XIX, p.198.

<sup>6</sup> W.C.Wentworth, *A Description of New South Wales*, (London, 1820), p.168.

<sup>7</sup> G.W.Turner, *The English Language in Australia and New Zealand*, (Longmans, London, 1966) p.49.

An illustration of this transformation is provided in Syme's account of Van Diemen's Land written in the 1840s.

Bush-ranging, or the being at large of prisoners in the woods, first showed itself, causing, even in its infancy, unspeakable mischief; but, growing in terror with its own growth, soon attaining a height that was fraught with the worst consequences.<sup>1</sup>

Historically, it is easy to see why those who identified their interests with the maintenance of the dominant distribution of power relationships would seek to denigrate convict attempts to subvert the structure of that authority. However, accounting for the longevity of this aspect of the literature poses problems of a more challenging nature. Long after the termination of transportation to Eastern Australia the bushranger has remained on the historical agenda as the *enfant terrible* of the convict system. Indeed the metaphor is still very much alive and the bushranger has often been likened to the mischievous child who develops into the terrifying adolescent. More than one authority has taken the parallel even further, drawing comparisons between the bushranger and contemporary larrikinism. Writing in the 1950s, for example, Stieglitz noted that:

"With a few exceptions their (the bushrangers) language was really dreadful and it is interesting to note that the swear words they used, as quoted in horrified italics by the Historical Records of Australia, were just the same as those you would expect to hear being used nowadays by neglected young men steeped in folly."<sup>2</sup>

Humphrey McQueen was of a similar opinion. "Bushrangers", he claimed in 1971, "were no more, and often a good deal less, than louts of the contemporary bikie variety."<sup>3</sup> Others have gone further, embellishing accounts of Australia's bushranging past with stories of cannibalism, piracy, brutal murders and rapes.<sup>4</sup> Indeed in much of the literature the convict bushranger has become "inhuman", a tortured creature wandering the wilds like Frankenstein's monster.<sup>5</sup>

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<sup>1</sup> J.Syme, *Nine Years in Van Diemen's Land*, (n.p., Dundee, 1848) p.18.

<sup>2</sup> K.R.von Stieglitz, *Tasmanian Bushrangers*, (n.p., Hobart, 1951) p.15.

<sup>3</sup> H.McQueen, *A New Britannia: An Argument Concerning the Social Origins of Australian Radicalism and Nationalism*, (Ringwood, Victoria, 1971) p.137.

<sup>4</sup> See for example, G.E.Boxall, *The Story Of Australia's Bushrangers*, (Angus and Robertson, London, 1899) *passim*.

<sup>5</sup> G.Mackaness, *The Van Diemen's Land Warriors*, (Review Publications, Dubbo, 1979) p.16 and J.Bonwick, *The Bushrangers, Illustrating the Early Days of Van Diemen's Land*, (George Robertson, Melbourne, 1856) reprint (Fullers, Hobart, 1967) pp.53-54.

In accounting for the origins of this literary genre the researcher does not have to look far. It is stigma of Australia's transportation era which has tainted the historiography of early bushranging. As Stieglitz has written:

There was no other training ground for young bushrangers than those provided by their thieving propensities and a natural aptitude for their profession. These, combined with a disinclination for ordinary hard work and perhaps a slave-driving master, turned out many bandits with first class degrees in cruelty and crime.<sup>1</sup>

In Eastern Australia, attempts to dissociate the nation's past from its convict connections continued long after the last transport had docked at Hobart on the 26 May 1853.<sup>2</sup> Transportation was rarely mentioned in the course of the second half of the nineteenth century unless it was to emphasise the subsequent flowering of the colonies "freed" from the shackles of convictism. In a society where it was commonly believed that the sins of the parents were visited on the children, no one wanted to dwell too closely on the origins of the Australian born.<sup>3</sup> In New South Wales this unease was graphically illustrated in the reluctance to issue an official State history textbook, an "oversight" which was not remedied until the turn of the century. Only in Victoria, relatively untainted by the convict stain, was the subject more freely broached. When Alexander and George Sutherlands' work, *The History of Australia From 1606-1876*, was published in 1884, there were few qualms about distributing it to Victorian schools. For, it was New South Wales, not their state, which had in the first decade of the nineteenth century been composed of "the most depraved and hardened villains to be met with in the history of crime."<sup>4</sup> However, if the colonists in New South Wales cringed at the thought of their European origins, their blushes were nothing compared to those of Tasmanians.

Of all the convicts transported to Australia 42 percent were landed in Tasmania, compared to 52 percent sent to New South Wales. Absolute figures can be deceiving, however, four years after the last transport had arrived, census breakdowns revealed that 60 percent of adult male Tasmanians had been or still were convicts.<sup>5</sup> For a society

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<sup>1</sup> Stieglitz, *Tasmanian Bushrangers*, p.17.

<sup>2</sup> C.Bateson, *The Convict Ships 1788-1868*, (Brown, Son and Ferguson, Glasgow, 1959) pp.320-321 and K.S.Inglis, 'Remembering Australia 1788-1988', *The Historian*, No.19 (1988) pp.5-6. Convicts continued to arrive in Western Australia after 1853, however, the flow was much reduced and finally terminated in 1868, eighty years after the first fleet had landed at Port Jackson.

<sup>3</sup> R.White, *Inventing Australia*, (George Allen & Unwin, Sydney, 1988) pp.22-23.

<sup>4</sup> As quoted in B.H.Fletcher, "'A Miscarriage of History': The First Official History Textbook in New South Wales 1889-1901", *History of Education Review*, Vol.19, No.1 (1990) p.17.

<sup>5</sup> H.Reynolds, "'That Hated Stain': The Aftermath of Transportation in Tasmania", *Historical Studies*, Vol.14, No.3 (1969) p.19.

which held that crime was analogous to a contagious disease these figures made uncomfortable reading.<sup>1</sup> To the alarm of the "respectable", evidence for the continuing spread of this moral infection was readily located in the colony's statistical returns. Compared with New South Wales, where transportation had ceased eleven years before the last transport docked at Hobart, the *per capita* conviction rate remained high well into the 1860s. Indeed, as Reynolds has noted, in the mid-1860s, Tasmania "had more lunatics, more orphaned or abandoned children, more prisoners, more invalids and paupers than South Australia and Queensland together, although their combined population was 2½ times greater..<sup>2</sup> These were woes which, in one way or another, were attributed to the colony's residual convict population, or that larger army of time-expired prisoners and their descendants. Indeed, it should be remembered, that this was the only colony to adopt a new name in its attempt to escape the stigma of a convict past. Van Diemen's Land, a title resonant with memories of penal settlements, iron gangs and beatings, was officially dropped the year after the last transport docked at Hobart. However, self induced amnesia was more prevalent than this change in titles would suggest. Many children also chose to forget their parents origins and cultural traditions as convict family histories were securely locked in the closet.<sup>3</sup> It was not until 88 years after abolition that tentative attempts were made to uncover the skeletons and dust off the state's history.<sup>4</sup>

Yet, there was another factor at work which helps to explain why Tasmanians were so eager to forget their convict past. It was widely held that no matter how hardened in vice the convicts transported to New South Wales had been, those who landed on the Van Diemen's Land shore were immeasurably worse. Van Diemen's Land, it was said, had been singled out as a destination for the irreclaimable and two places, more than any others, stood as lasting reminders of this sorry legacy. These were the old penal settlement at Macquarie Harbour, abandoned in 1832 and its model replacement at Port Arthur on the Tasman Peninsula which remained in service until 1877. Both were reserved for those convicts convicted in colonial courts and sentenced to a second stint of transportation. Labelled as receptacles for hardened recidivists, the memory of these institutions was dark with tales of unnatural crime, cannibalism and a vicious regime of repression headed by the use of the lash. When Port Arthur was finally closed its name

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<sup>1</sup> M.Sturma, *Vice in a Vicious Society*, (University of Queensland Press, St. Lucia, 1983) pp.1-3.

<sup>2</sup> Reynolds, "'That Hated Stain'", pp.20-21.

<sup>3</sup> P.MacFie, 'Oral History and the Demise of Folk Culture in the Richmond District, Tasmania', (Author's manuscript) p.13.

<sup>4</sup> As the title of Smith's book would suggest, *Shadow over Tasmania: For the First Time - The Truth about the State's Convict History*, even this belated attempt at re-appraisal was not without its element of controversy, C.Smith, *Shadow over Tasmania*, (Walch, Hobart, 1941).

was changed to the more picturesque Carnarvon and in the 1890s the colonists celebrated as a series of bush fires further extinguished the memory of Van Diemen's Land's most infamous institution.<sup>1</sup>

Yet, if Port Arthur and Macquarie Harbour were the institutional symbols of the darker side of Tasmania's past, the bushrangers who escaped from their confines were a personification of all the convict system's evils. This is a theme which has long remained entrenched within the literature of the convict period and was reiterated as recently as 1984 in a work written for use in Australian schools.<sup>2</sup> The inter-twining of the mythology of bushranging and the mythology of convict settlement has not been an accidental process. Rather, this aspect of the literature is a product of the anti-transportation lobby which gathered steam from the 1820s onwards. Thus, the denigration of the bushranger is a microcosm of the denigration of a whole system of colonization and social control which became unacceptable to a large swath of British and Australian public opinion. We need not concern ourselves at this juncture with a detailed reasoning of why this should be so, it is important only to isolate those features of Australia's bushranging story which are anti-transportationist in origins. These are, first, the notion that criminal propensities are akin to physical attributes; that a criminal population can be measured in the same way as the proportion of people in society with blue eyes can be counted. It follows from this argument that the movement of a 'population of criminals' will have dire consequences for the society in which they are implanted. Gross moral disorders will be perpetuated since crime is not a function of the socio-economic environment but of the reproductive cycle. Thus, moral disorder can only be checked by the application of scientific method, in short it must be treated like any hereditary disease which is harmful to the fabric of the social body at large. It was perceived that the most effective method of achieving decontamination was to isolate the infected in the wings of a prison system, that is, an institution which fulfilled all the criteria of a controlled environment.

This brings us to the second strand of anti-transportationist rhetoric. The convict system it was charged, lamentably failed in these objectives. In particular the system of working convicts under private and public masters was held to be arbitrary, that is unscientific. This was so because the treatment of the convict depended on the demeanour of his or her employer rather than the moral/physical state of the offender. While this at times led to laxity it also led to the gross infliction of pain as driving

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<sup>1</sup> I.Brand, *Port Arthur 1830-1877*, (Jason Publications, West Moonah, Tasmania, 1975) p.76.

<sup>2</sup> G.Disher, *Wretches and Rebels: The Australian Bushrangers*, (Oxford University Press, Melbourne, 1984) pp.6-7.

overseers beat their charges in a work routine which understood none of the subtleties of the criminal sciences. This excessive cruelty, it was argued, contorted the unstable mind of the offender driving him beyond reason. It was, in short, a system which created psychopaths. The bushranger was the embodiment of both evils; the transported criminal deranged beyond reason by a barbaric and outmoded system of punishment.<sup>1</sup>

### **A great new vision: an Australian vision?**

The anti-transportation campaign bequeathed Australia with a past that was difficult to live with and this is a legacy which Australians, or at least Eastern Australians, have learnt to cope with in two ways. As we have already seen, much cultural damage was inflicted in the years after the termination of transportation as families chose to forget their own convict histories. This was a process which saw convict fathers and grandfathers converted into sea captains and mothers and grandmothers transformed from "damned bitches of convict women" into dutiful Victorian wives.<sup>2</sup> Towards the end of the nineteenth century, however, Australians began to turn to a new strategy. One which allowed convict histories to be not only recognised, but re-installed into the family tree with pride.

In its early years this rehabilitation process was the preserve of one distinct Australian community, the Roman Catholic Irish. As early as 1894 Irish convicts had been described as martyrs to the faith whose only crime had been to rebel against British rule. Indeed, in 1906 the *Austral Light*, an Australian Catholic journal, had gone as far as to claim that the Irish alone were free from the stain of convictism since none of their ancestors had actually been criminals.<sup>3</sup> Thus, from the 1890s onwards a mental picture was constructed of a transported Irish peasantry enslaved for refusing to accept the yoke of Anglo-Saxon tyranny. As Irish Australian society adjusted to this new perception of their origins, the history of the nation's bushrangers was re-examined. The Irish bushranger became an embodiment of the continuing struggle against unjust English laws. In short, they were seen as old rebels in a new land.

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<sup>1</sup> See Hirst, *Convict Society and its Enemies*, pp.9-27; N.Townsend, 'A "Mere Lottery": The Convict System in New South Wales Through the Eyes of the Molesworth Committee', *Push From the Bush*, Vol.21 (1985) pp.58-86; M.Foucault, *Discipline and Punish: The Birth of the Modern Prison*, (Penguin Books, Harmondsworth, Middlesex, 1982) *passim*; M.Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1759-1850*, (MacMillan, London, 1978) *passim* and S.McConville, *A History of English Prison Administration, 1750-1877*, (Routledge and Kegan Paul, London, 1981) pp.187-197.

<sup>2</sup> For reference to "damned bitches of convict women", see Hughes, *The Fatal Shore*, p.250.

<sup>3</sup> R.H.Reece, *Irish Convicts*, (Department of Modern History, University College Dublin, 1989) p.6.

The Irish community's re-assessment of its past had obvious appeal for other Australians and by the 1920s many were using the same mechanism to cope with their convict histories. While it was never claimed that all convicts had been social rebels, it was widely argued that many had been transported for "crimes" which morally speaking, were not really crimes at all. As the popular rhyme would have it:

The law locks up the man or woman  
Who steals the goose from the common,  
But leaves the greater villain loose  
Who steals the common from the goose.<sup>1</sup>

As can be inferred from this verse, there was a strong anti-"English" element in this re-working of white Australia's origins. The end product was a history which was deeply nationalist in composition and contained many elements which were borrowed from Irish Australian cultural traditions. Thus, the nations "founding mothers and fathers" were increasingly seen as unfortunate victims of a harsh penal code who had been forced to labour in conditions akin to slavery under the ever watchful eye of the English officer and his punishment book. What made this vision of Australia's past particularly persuasive, however, was that it combined a nationalist image of Australia's history with some of the salient features of the anti-transportationist historiography. The image of the depraved convict was ditched, but the condemnation of the system was retained. A process which turned the finger of accusation through 180 degrees. For, Australians could not be held responsible for the brutality of the lash, or the horrors of Norfolk Island, Port Arthur and Macquarie Harbour, these were all products of British imperialism.<sup>2</sup>

Not surprisingly, this process of historical re-working engendered a new interest in Australia's convict bushrangers. The latter were increasingly seen not as monsters but as rebels who had tackled a brutal system of repression head on. While this argument never swept away all vestiges of the anti-transportationist literature, it did inject Australia's bushranging story with a new lease of life. Authors keen to sell their work to an increasingly nationalistic public were carefully to embellish their histories with details designed to enhance the social credentials of their historical subjects. For example, in Stieglitz work, Michael Howe, (at large in Van Diemen's Land c.1814-1818), is presented as a Nore Mutineer; Matthew Brady, (at large 1824-1826 and widely known as the 'gentleman bushranger'), adopts a gentleman's offence, forgery

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<sup>1</sup> White, *Inventing Australia*, p.27.

<sup>2</sup> White, *Inventing Australia*, p.27.



and Samuel Britton, (at large 1828-c.1837), becomes a social offender, a smuggler.<sup>1</sup> This distortion was conscious, it marked an attempt to subvert a version of the past which Australians identified as primarily British in origins.

Thus, a consistent theme strung through the re-write of Australia's bushranging past has been a preoccupation with a convict sub-, or counter culture, which can be identified as anti-British. As Robert Hughes observes, despite the lack of documentation it is held as common knowledge that the ballad *Bold Jack Donahoe*, a work which celebrates the deeds of the New South Wales bushranger of the 1830s, was repressed as treasonable by the colonial authorities only to be replaced by *The Wild Colonial Boy*.<sup>2</sup> The latter omitting the name Donahoe but always retaining his initials, J.D.. Hughes himself concludes that "Whenever they could, the instruments of official culture tried to play down the obdurate attachment of the Australian rank and file to its bushranger folk-heroes...".<sup>3</sup>

In effect, this re-assessment of Australia's white origins placed the convict on a continuum, they were halfway between being British and being Australian. As the historian, George Arnold Wood phrased the point in 1922:

The colony in Sydney was not,...a colony of specially bad men, but it was a colony of men who had all suffered, in Macquarie's kindly word, a "misfortune," that gave a sense of equality, and also a sense of humility. And these equal and humble men were, both as individuals and as a community, masters of their own fate, with opportunity to make themselves what they would.<sup>4</sup>

It was that process of "making" which interested late nineteenth and early twentieth century Australian nationalists. For them, the evolution of Australia had occurred in less than one hundred and fifty years, as the Farm Cove settlement had developed from

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<sup>1</sup> Stieglitz, *Tasmanian Bushrangers*, pp.10,23 and 38. In fact, while first hand accounts of Howe's career relate that he served in both the Merchant and the Royal Navy, he was tried long after events at the Nore and the offence which brought him to Australia was not mutinous conduct but assault with intent to rob on the highway. T.Wells, *Mike Howe, The Last and Worst of The Bushrangers*, (Hobart, 1819) reprint (Platypus Press, Hobart, 1966) p.5 and *P.R.O.*, HO/11/2 and HO/27/7. Likewise, Matthew Brady, a servant from Manchester, was transported for stealing a basket of groceries and Samuel Britton, a west country farm labourer, for petty theft. Matthew Brady, per *Juliana*, No.356 *A.O.T.*, Con.23 and 31 and Samuel Britton, per *Caledonia*, No.547, *A.O.T.*, Con.23 and 31.

<sup>2</sup> Hughes, *The Fatal Shore*, p.241.

<sup>3</sup> Hughes, *The Fatal Shore*, pp.597-598. The New South Wales experience was mirrored in Van Diemen's Land. In 1827 Andrew Bent printed a work entitled *The Van Diemen's Land Warriors or The Heroes of Cornwall: a Satire in Three Cantos by Pindar Juvenal*. The work was banned and all known copies destroyed by the colonial authorities, although, ironically, the one submitted to the censor survived.

<sup>4</sup> Wood, 'Convicts', p.196-198.

a prison colony into a nation. The convicts were the seeds of this nation tossed away onto a distant shore and out of their initial struggle for survival a hybrid of immense strength and resilience had been born. The metaphor is appropriate for an age which was obsessed with racial and national stereotypes and equated the progress of civilization with the progress of the racial type. It was this opportunity for self improvement that had been presented to Australia's founding mothers and fathers and by the beginning of the twentieth century the successors to that original stock were keen to demonstrate that the Australian environment had indeed nurtured a product with the potential to contribute to civilization.<sup>1</sup> It was no accident that this particular creation myth flourished in the years after the first world war, for the war was a grand opportunity to assess the worth of the Australian contribution to civilization. As Wood wrote, ".. the day came when at Gallipoli, in Flanders, and in France the Australian-born proved themselves to be amongst the greatest and noblest souls who have ever grown among the British race."<sup>2</sup>

However, this rewrite of Australian history was not entirely home grown. As Richard White has demonstrated, the original myth of the Australian as manly was 'a product of the capitalist marketing of Australia as an immigrant workers paradise. From the 1830s onwards, the achievement of the Australian born formed a principal component of the alluring image of Australia tendered by colonial employers and shipping agents in the "over-populated" industrial landscape of Europe. The "Currency", as the Australian born youth were described, was used as a reference point in the conversion of a convict hell into a free man's Arcadia of rural homesteads and pioneering families.<sup>3</sup>

For the Australian working class, the regional failures of the 1860s and 70s and long depression of the 1890s exposed the lie of the working man's paradise. Yet, for them, the myth of the Australian born was still powerful and they embellished it with their own history of the working class struggle. The great depression of the 1920s and 30s provided the impetus to give this popularization of the national type a history which was both radical and nationalist. A vision of Australia's past which accorded a special place for the miners' stand at Eureka stockade, the strikes of the 1890s and the Australian born bushrangers.<sup>4</sup> It is no coincidence that the first 'pro-Kelly' books arrived on the scene in the late 1920s, coinciding with Woods challenging re-interpretation of the social origins of Australia's convict migrants and the heightened

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<sup>1</sup> White, pp.64-75.

<sup>2</sup> Wood, 'Convicts', p.197.

<sup>3</sup> White, *Inventing Australia*, pp.33-37.

<sup>4</sup> White, *Inventing Australia*, p.154.

social tensions which accompanied the great depression.<sup>1</sup> McQuilton was undoubtedly right when he argued that it was the latter which gave the Kelly story "a new lease of life and a new significance".<sup>2</sup> Thus, the image that most Australians have inherited of Kelly is a complex amalgam of visions. The resurrection of the native born bushrangers was both a product of the process of coming to terms with a convict heritage and a re-working of the identity that outside observers had imposed on Australia. "The last great re-statement" of this version of Australia's history was Russel Ward's *Australian Legend*, first published in 1951.<sup>3</sup>

Ward's enquiry was an attempt to trace and explain the national image that Australians have of themselves.<sup>4</sup> The manifestation of this mystique is a set of characteristics which Ward claimed to be peculiarly Australian, most notably identification with the bush and the bush way of life. Ward concluded that this process of identification had occurred early in the history of white Australia. It stemmed from the response of the convict bushworkers to the natural environment and the predominantly agrarian economy of the penal settlement. In particular, Ward saw the early bushrangers as portraying more that can be termed Australian, than any other participants in the nation's white history. This was because they were the first to adopt the bush as 'home' and live outside the imposed order of European settlement.

The distinctly Australian ethos which developed before 1851, sprang primarily from convict working-class, Irish and native born sources, and...was associated particularly with up-country life. In all these respects the first bushrangers were more 'Australian' than anybody else. Nearly all of them were convict 'bolters' of whom many were Irish including Bold Jack Donahoe....A few were native born youths and the very existence of all depended upon their being more completely 'independent' of the authorities, more adaptable, resourceful, and loyal to each other, than even the most thoroughly acclimatized bush workman. Indeed if bushman were the 'true Australians', runaway convicts were the first of their genus.<sup>5</sup>

Like all history, Ward's book was a product of his own time and his compartmentalization of the bushranger reflects the origins of the "Legend". These lay not with Australia's founding white mothers and fathers, but in the invention of an Australian national character. A symbol of "Australianess" which injected grit into the

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<sup>1</sup> See for example, J.J.Kenneally, *The Inner History of the Kelly Gang*, (n.p., Melbourne, 1929)

<sup>2</sup> J.McQuilton, *The Kelly Outbreak 1878-1880: The Geographical Dimension of Social Banditry*, (Melbourne University Press, Carlton, Victoria, 1979) p.204.

<sup>3</sup> White, *Inventing Australia*, p.154.

<sup>4</sup> R.Ward, 'The Australian Legend Revisited', *Historical Studies*, Vol. 18, No.70 (1978) pp.171-190.

<sup>5</sup> R.Ward, *The Australian Legend*, (Oxford University Press, Melbourne, 1966) p.136.

idyllic image of the smiling youth displayed on the shipping company's bill board. As images go, Ward's was persuasive and his impact on Australian vision has been profound.

**An old vision revisited: the bushranger and the age of computer driven history.**

However, the rise of a new history in the 1950s and 60s was to cut the "Australian Legend" off from its convict foundations. This was a history pioneered by Manning Clark and brought to fruition with the publication of Lloyd Robson's statistical enquiry in 1965.<sup>1</sup> The aim of these authors was simple: to challenge the romantic Australian leftist vision of the convicts as more sinned against than sinning, through the meticulous examination of surviving records. Robson's study in particular was to have a major impact on Australian historiography. In what was for its time an impressive objective, the latter sought to reconstitute a profile of the convicts transported to Eastern Australia. To this end he fed a sample of one in twenty of the men and women listed on the Home Office returns for Australia bound transports into a computer. For Robson this methodology had distinct advantages over those employed by his predecessors. In an appendix to *The Convict Settlers of Australia* he wrote:

Historians have tended either to come into possession of an hypothesis, and then find cases to 'prove' its validity, or else inspected the material, picked out what suited their purpose, and then concluded that the pieces examined were representative of the whole. The latter technique may result in partly true conclusions, and the first may stimulate rewarding speculations. This is not enough in the case of the men and women transported to Australia, and it is not enough if only because there exists adequate material and a valid methodology to come to a more satisfactory conclusion.<sup>2</sup>

The "more satisfactory conclusion" which Robson reached was that: "The convicts were neither 'village Hampdens' nor merely 'ne'er-do-wells from the city slums'. But if the Hampdens are placed on one side of a scale and the ne'er-do-wells on the other, the scale must tip toward the ne'er-do-wells."<sup>3</sup> In this, Robson's revision was not as wholesale as that advocated by Clark. However, just as Wood's 1922 article had paved the way for the cult of the innocent convict, Robson's work placed the hardened city recidivist of anti-transportationist accounts back on the historical agenda. This was not

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<sup>1</sup> C.M.H.Clark, 'The Origins of the Convicts Transported to Eastern Australia, 1787-1852', *Historical Studies*, Vol.7, (1956) pp.121-135 and 314-327 and Robson, *The Convict Settlers of Australia*.

<sup>2</sup> Robson, *The Convict Settlers of Australia*, p.161.

<sup>3</sup> Robson, *The Convict Settlers of Australia*, pp.157-158.

an accidental process. Despite his claims to objectivity, Robson's statistical matrix was heavily embroidered with a Victorian phantasmagoria of criminal types. Indeed, as argued in a recent work, Robson's preoccupation with the nineteenth century notion of a criminal class led him to ignore much detail recorded in the convict registers which could not be squared with his conclusions.<sup>1</sup> In short, far from being an appraisal of Australia's convict migrants free from the bias which had characterised the work of the previous generation of historians, the dice that Robson rolled were distinctly loaded.

Nevertheless, the emergence of the new technology of the computer had a profound effect on Australian historians. Robson's work was welcomed with enthusiasm and his conclusions were not to be seriously challenged for another twenty-three years. In the wake of the demolition of Woods' maligned rural convicts thesis, a new history emerged which saw transportation purely in terms of the immorality of the convicts removed to Australia. Contemporary sources which depicted the convicts as work shy and unmanageable whores and professional thieves, were uncritically deployed to flesh out an argument which sympathised with the torments suffered by colonial employers.<sup>2</sup> Out of this history the bushranger emerged, not as the social rebel, but as the irreclaimable convict, an argument which had particularly profound consequences when applied to Tasmania. Van Diemen's Land was singled out as the colony which had received the worst of the convicts, that is, a higher proportion of "ne'er-do-wells from the city slums". The high levels of bushranging experienced in the colony were no more than could be expected, they were in short, proof of the validity of the new history.<sup>3</sup>

### **A structured vision: the bushranger as social bandit.**

In contrast to the confusion which has dogged both the popular accounts of bushranging and the main stream historical literature, some scholars have turned to comparative studies of banditry in an attempt to impose some order on Australia's bushranging past. Scholarly interest in banditry was initially kindled by two important, if loosely structured works, by Eric Hobsbawm: *Primitive Rebels*; and *Bandits*. In the latter Hobsbawm postulated that some bandits are not seen as simple criminals by

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<sup>1</sup> See S.Nicholas and P.Shergold, 'Unshackling the Past', in S.Nicholas, (ed.) *Convict Workers*, p.5.

<sup>2</sup> See in particular, Hirst, *Convict Society and its Enemies*, *passim*.

<sup>3</sup> L.L.Robson, *A History of Tasmania: Van Diemen's Land from the Earliest Times to 1855*, Vol.1, (Oxford University Press, Melbourne, 1983) p.70.

traditional peasant societies, but as men "to be admired helped and supported." He maintains that these attitudes are prevalent in certain pre-capitalist economies which are subjected to pressure from external agents, for example, banks, landlords or governments. Hobsbawm maintains that such communities articulate their grievances through the real or perceived actions of local bandit groups. He termed this form of relationship "social banditry".<sup>1</sup> Hobsbawm stressed the importance of folklaw which he saw as an important indicator of the universal nature of 'social banditry' he concluded that "Geographically it (social banditry) is found throughout the Americas, Europe, the Islamic world, South and East Asia, and even Australia."<sup>2</sup>

Attacking Hobsbawm's use of terminology Anton Blok has argued that certain forms of banditry fuel class conflict, and thus far from championing the poor, bandits often terrorize those from whose ranks they are predominantly recruited.<sup>3</sup> He points out that all bandits are in a sense social in that they are linked to other individuals, groups, networks etc. by social and economic ties. He claims, that Hobsbawm is obsessed with the links which may form between some bandits and their peasant communities, an obsession which has led the latter to ignore other important forms of banditry, and the ties which frequently exist between bandits and non-peasant groups. Blok claims that in order to survive bandits need both protection and links to a power domain. Of all categories, peasants have the least political influence and are therefore the least useful to the social bandit.<sup>4</sup> He suggests that a bandit's growing success depends upon his ability to maximise his political connections and this leads to a tendency for banditry to become anti-social, that is, anti-peasant.

Blok drew upon Sicilian banditry to support his argument. However, work conducted on the bandit phenomenon of North-East Brazil in the late 19th and early 20th centuries has considerably strengthened his argument.<sup>5</sup> It would seem that the two greatest *cangaceiros*, Antonio Silvino (active 1895-1914) and Lampiao (1918-1938), owed their particularly long careers to the roll they fulfilled within the complicated political system of rural Brazil. Droughts and epidemics in the last three decades of the 19th century, combined with the abolition of slavery, the collapse of the monarchy in 1884 and the

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<sup>1</sup> E.J. Hobsbawm, *Bandits*, (Penguin Books, Harmondsworth, Middlesex, 1985) pp.17-29.

<sup>2</sup> Hobsbawm, *Bandits*, p.18.

<sup>3</sup> A. Blok, 'The peasant and the brigand: social banditry reconsidered', *Comparative Studies in Society and History*, 14, 1972, pp.494-502.

<sup>4</sup> Blok, 'The peasant and the brigand', p.498.

<sup>5</sup> L. Lewin, 'The oligarchical limitations of social banditry in Brazil: the case of the "good" thief Antonio Silvino', *Past and Present*, No.82, 1979, pp.116-49 and R. Singleman, 'Political structure and social banditry in North Eastern Brazil', *Journal of Latin American Studies*, Vol.7, No.1, 1975, pp.58-83.

resultant modification to political structures, reinforced existing tensions between the powerful *paretelas*, (extended families), at a local level. With the decentralisation of political power under the Republic, complicated patronage systems grew up around local bosses. These had linkages to both the state party machine and the rural client population who provided the bulk of the votes. Consequently political conflict organised according to vertical family divisions. Within this system banditry found a natural role "settling the accounts" of the local elites in return from immunity from prosecution. Thus, although the recruitment of bandits largely reflects Hobsbawm's model of social composition, traditional areas of recruitment were young landless subsistence farmers, cowboys, orphans and unemployed rural labourers,<sup>1</sup> it did not represent an attempt to rebel against the local order on behalf of peasant society. Joining meant access to social mobility within the existing political system.

Studies of banditry in 19th and 20th century Ethiopia have added further weight to this interpretation.<sup>2</sup> In many cases it would seem that *shefta* groups, though being largely composed of landless peasants, shepherds and disbanded soldiers, were led by dissident members of the Ethiopian aristocracy. Further, that after merchants, peasant communities were the principle target of attack and that if peasant *shefta* can be seen to display any kind of social resistance mechanism, it was the local hierarchy which, benefited rather than peasant communities.

In Abyssina noble faction and brigandage diffused mass dissent within vertical relationships. Limited in perspective by their modes of production- small, largely self sufficient units- Ethiopian peasants tended to look to noble patrons for leadership. With a few notable exceptions, most peasant *shefta* were followers of disaffected nobles.<sup>3</sup>

Hobsbawm countered Blok's challenge by claiming that it isn't the individuals actions *per se* which make him a social bandit, but the particular light with which a peasant community views that individual. He under-lines the importance of the widespread myth of 'social banditry' amongst peasant communities, claiming that this "represents not what (some) bandits do, but merely what peasants would wish them - or someone- to be doing."<sup>4</sup> This statement is important in the following respects. Firstly,

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<sup>1</sup> The one major exception being impoverished and or politically defeated *fazenderios* who entered the *cangaco* with their own retainers. Singleman, 'Political structure and social banditry', p.62.

<sup>2</sup> D.Crummey, 'Banditry and resistance: Noble and Peasant in 19th Century Ethiopia', and T. Ferryhough, 'Social Mobility and Dissident Elites in Northern Ethiopia: The Role of Banditry 1900-96', in D.Crummey (ed.) *Banditry, Rebellion and social protest in Africa*, (Currey, London, 1986)

<sup>3</sup> Ferryhough, 'Social Banditry and Dissident Elites in Northern Ethiopia', pp.166.

<sup>4</sup> E.J.Hobsbawm, 'Social bandits: a reply', *Comparative Studies in Society and History*, 14, 1972, pp.303-305.

Hobsbawm has clarified what he means by 'social banditry'. He is not talking directly about the social and economic links that may form between bandit groups and peasant societies: or about any form of social protest made by the bandits on behalf of a peasant society, but of the latter's use of a bandit tradition/example as an expression of "primitive" class consciousness. Secondly, given this definition, it does not follow that anti-social banditry is the opposite of social: for, as Hobsbawm explains, peasants distinguish in their folklore between "good" and "bad" bandits, but this distinction does not necessarily conform to reality.<sup>1</sup> Thus, Hobsbawm can demonstrate that his view of Brazilian banditry is not out of step with historical realities:

Among the *cangaceiros* of the Brazilian north-east there are those, like the great Antonio Silvino (1875-1944, fl. as a bandit chief 1896-1914), who are mainly remembered for their good deeds, and others, like Rio Preto, mainly for their cruelty.<sup>2</sup>

To recap, the phrase 'social banditry' has led to much confusion. Contrary to the assertions of some authors, a careful reading of Hobsbawm reveals that he does not employ the term to describe the actions a bandit group may perform on behalf of peasant societies. In fact the only requirement of the former is their existence. Hobsbawm is not interested in the actions of outlaws *per se*, but rather in the manner in which these are interpreted by some "pre-industrial" rural communities. He coined the phrase to describe the manner in which bandit traditions are incorporated into existing cultural mores as a form of political expression. Thus, while the resultant folkmyth is often a distortion of actual events, for Hobsbawm this is irrelevant. Instead, he claims that the importance of a social bandit tradition is that it identifies a form of pre-capitalist community consciousness subsequently replaced by industrial class consciousness.<sup>3</sup>

While this model would appear to be at odds with standard interpretation of the Australian colonial economy, Hobsbawm himself noted many points of similarity between the bushranging tradition and the criteria outlined in his studies.<sup>4</sup> Bemused by this inherent contradiction, Pat O'Malley has sought to critically assess Hobsbawm's work through reference to North-East Victoria in the aftermath of the "Kelly outbreak". In particular, O'Malley has questioned the assertion that a 'traditional peasantry' and a pre-capitalist or 'pre-industrial' social environment are a pre-requisite of a social bandit

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<sup>1</sup> Hobsbawm, 'Social bandits: a reply', p.304.

<sup>2</sup> Hobsbawm, *Bandits*, p.59.

<sup>3</sup> E.J.Hobsbawm, 'Social Banditry' in H.W. Landsberger (ed.) *Rural Protest, Peasant Movements and Social Change*, (MacMillan, London, 1974) pp.146-148.

<sup>4</sup> Hobsbawm, *Bandits*, p.131.



tradition.<sup>1</sup> Rounding on Hobsbawm's unqualified use of the term "traditional peasantry", he stresses that the whole question of what exactly constitutes a peasantry is so confused that it is impossible to determine the nature of the community central to Hobsbawm's work.<sup>2</sup> Secondly, he claims that Hobsbawm further adds to the confusion by arguing in his later work that social banditry is usually prevalent when the "traditional peasantry" gives way to the "modern economy". O'Malley observes that we are now confronted with social banditry at exactly the point where Hobsbawm originally stipulated that it could not occur.<sup>3</sup> He asks, "Is the peasantry/social banditry nexus necessary, and if so why? .. Is the industrialism-capitalism/social banditry incompatibility necessary and if so why?".<sup>4</sup>

O'Malley reasons that Hobsbawm stressed the need for a 'traditional peasantry' as he perceived that only the latter were likely to provide the appropriate context for the 'primitive' form of class struggle required to support social banditry. Thus, to understand the issue it is necessary to delve deeper into Hobsbawm's work on the political structure of 'peasant societies'. Strongly influenced by Shanin<sup>5</sup>, Hobsbawm defines peasantry as 'traditional' where the social, political and economic horizon of the community is geographically restricted. He argues that such societies make a clear distinction between the members of their community and those who belong to other social groups. While it is often difficult to separate communal and broader issues, he maintains that the politics of the 'traditional peasantry' are shaped by their external contacts and in particular with those he defines as "superiors" and or "exploiters".<sup>6</sup> According to Hobsbawm, the 'traditional peasant' society is thus characterised by a high degree "of formal or informal (mostly localised) collectivity, which both tends to inhibit permanent social differentiation within the peasantry and to facilitate, or even impose communal action".<sup>7</sup> For Hobsbawm this is important, as for social banditry to operate as an expression of political consciousness the constituent members of the bandits' support base must identify resistance to external agents with the aims of the community as a whole. In short they operate as a class in so far as they constitute "...a body of people who have the same kind of relation to the means of production as well

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<sup>1</sup> P.O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry. A Critique of Hobsbawm', *Journal of Peasant Studies*, Vol.6, No.4 (1979) p.490.

<sup>2</sup> See for example S.Minitz, 'A Note on the Definition of Peasantries', *Journal of Peasant Studies*, Vol.1 (1973) pp.91-106.

<sup>3</sup> O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry', pp.490-491.

<sup>4</sup> O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry', pp.491.

<sup>5</sup> T.Shanin, 'Peasantry, Delineation of a Sociological Concept and a Field of Study', *European Journal of Sociology*, Vol.12, (1971) pp.289-300.

<sup>6</sup> E.J.Hobsbawm, 'Peasants and Politics', *Journal of Peasant Studies*, Vol.1, No.1, (1973) p.3.

<sup>7</sup> Hobsbawm, 'Peasants and Politics', p.4.

as other common economic and social characteristics".<sup>1</sup> He argues that the advent of capitalism dissipates this local collectivity since it results in the "socio-economic differentiation of the agrarian (working) population".<sup>2</sup>

While O'Malley accepts that there may be a strong historical association between 'traditional peasants' and communal unity, he challenges Hobsbawm's assertion that the existence of a 'traditional peasantry' is "a necessary condition of such unity".<sup>3</sup> Turning to Corrigan's critique of Hobsbawm's work, he states that the whole concept of a peculiar peasant consciousness is questionable.<sup>4</sup> He concludes that rather than forming a special case it is entirely possible "that unity will arise in rural communities of heterogeneous composition where there exists a commonly shared experience of work or exploitation between the members of several dominated classes".<sup>5</sup> Indeed, over the last decade an argument akin to this has been extensively aired in the pages of the *Journal of Peasant Studies*. He suggests that the term direct producer could be more usefully substituted for that of 'traditional peasants'.

O'Malley claims that Hobsbawm specified a pre-industrial capitalist environment as this was compatible with the primitive nature of social banditry as a protest mechanism. The stipulation appeared to be necessary as Hobsbawm reasoned that such an arcane form of political articulation would quickly be replaced by more effective trade union and land league structures where these were in existence. However, O'Malley argues that political organisation can occur in rural areas independent of an industrial context, they do not "necessarily require a direct association with industrial capitalism". Therefore, he maintains, it is the absence of class-based political movements with class conscious ideologies, rather than industrial capitalism, which is important.

He re-writes Hobsbawm's criteria as follows. Rather than the existence of a 'traditional peasantry' and the absence of modern capitalism the essential prerequisites of social banditry are:

- (i) the presence of chronic class struggle which is reflected in a unified conflict consciousness among direct producers; and

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<sup>1</sup> Hobsbawm, 'Peasants and Politics', p.4.

<sup>2</sup> Hobsbawm, 'Peasants and Politics', p.4 and O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry', pp.492.

<sup>3</sup> O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry', pp.492.

<sup>4</sup> P.Corrigan, 'On the Politics of production: a comment on "peasants and Politics" by Eric Hobsbawm', *Journal of Peasant Studies*, Vol.2 (1975) pp.341-349.

<sup>5</sup> O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry', pp.492. See also, S.Mintz, 'The Rural Proletariat and the Problems of Rural Consciousness', *Journal of Peasant Studies*, Vol.1, No.3, (1974) pp.318-320.

(ii) the absence of effective institutionalised political organisation of the interests of the direct producers which manifests a programme of concerted action for the generalised attainment of their commonly sought ends.<sup>1</sup>

O'Malley applied his re-working of Hobsbawm's model, to the "Kelly Outbreak" of North-East Victoria (1878-80). He concluded that the background to the outbreak contained all the prominent features associated with social banditry. Of primary importance was the existence of a "class contest for the possession of land", fuelled by legislative attempts to redistribute the illegally held runs of a powerful 'squatocracy'. However, attempts to subdivide estates into free-hold plots to be occupied by small agriculturalists ended in failure as the regulations were widely circumvented. By the 1870s a regional conflict had erupted as the frustrations of impoverished free selectors and the landless reached boiling point. The Kelly Gang emerged from this conflict and became the mouth piece for a community of thwarted small landholders, shepherds, shearers and agricultural labourers. Despite the disparate nature of this community, shared aspirations, a common work experience and blood ties provided its constituent members with an acute local consciousness. However, in the years after the 'Outbreak', the advent of rural trade unions and land leagues resulted in economic class differentiation and the destruction of this community consciousness. For O'Malley, this explained why there were no more social bandits to follow the Kelly's.<sup>2</sup>

Although O'Malley's study represents the most constructive criticism of Hobsbawm's model produced to date, it leaves many important questions about the nature of Australian bushranging unanswered. In an analysis of the "Kelly Outbreak" which bears many parallels with O'Malley's work, John McQuilton has argued that, "Any period of sudden change or distress in rural nineteenth century Australia was accompanied by the appearance of the bushranger".<sup>3</sup> Although few authors have attempted to apply O'Malley's analysis to earlier outbreaks of bushranging it is often assumed that the phenomenon can be universally examined within the context of Hobsbawm's model. This assumption appears to fly in the face of the mainstream literature, which reiterating an anti-transportation historiography, depicts the convict bushranger as profoundly anti-social. Of course, it is possible to tackle this issue by using the criteria employed by Hobsbawm in his criticism of Blok's analysis of Sicilian

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<sup>1</sup> O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry', pp.494.

<sup>2</sup> O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry', pp.494-499 and 'Class Conflict, Land and Social Banditry: Bushranging in Nineteenth Century Australia', *Social Problems*, Vol.26, No.3, (1979) pp.271-283. See also McQuilton, *The Kelly Outbreak 1878-1880*, *passim*, for a similar analysis.

<sup>3</sup> McQuilton, *The Kelly Outbreak 1878-1880*, p.1.

banditry.<sup>1</sup> However, this discourse has failed to take on board the theoretical implications of applying a complex sociological concept of class formation to Australian convict society, for, it is this after all, which forms the central aspect of the Hobsbawm/O'Malley debate.

Thus, Australians of the 1990s have inherited a diverse collection of bushranging histories. To recap, there is the outlaw of the anti-transportationist literature, the imported recidivist with the lash scarred back. Psychologically tormented this killer of infants and torturer of Aborigines has been given a new lease of life in the more recent historiography. Secondly, there is the bushranger as folk hero, the most Australian Australian, the creation of a peculiar brand of intellectualised left wing nationalism. Thirdly, and deeply intertwined with the latter, is the Irish bushranger, an assertion of the Irish struggle for identity in a new continent. And fourthly, the bushranger as the tool of the social scientist, an indicator of pre-capitalist community consciousness. All of these perceptions have influenced the way that Australians have approached the history of convict transportation. The bushranger has often been deployed as symbol and no where is this more evident than in the historiography of Australia's convict era.

This study seeks to critically assess the assumptions implicit in this historiography. However, it is not intended to produce a revisionist history of bushranging, but to deploy that process of critical assessment in the fashioning of a fresh interpretation of the functioning of the convict system. In the pursuit of this objective the work has drawn heavily, although not uncritically, on recent additions to the literature. To this end it seeks to extend the re-interpretation of Australia's past launched by *Convict Workers* in 1988.<sup>2</sup> Thus, in common with the latter, this thesis is based on a new understanding of transportation as a system of enforced labour migration rather than as a mechanism for the effective disposal of British criminals. While, it is not claimed that this vision of Australia's past is any less open to bias than previous histories, it is hoped that it will provide the basis for future work which will improve and extend the understanding of transportation mapped out in this study.

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<sup>1</sup> Indeed a debate between Ward and McQueen has re-produced precisely this argument, see McQueen, *A New Britannia*, p.126 and 137 and R.Ward, 'The Legend Revisited', pp.175-6.

<sup>2</sup> S.Nicholas, (ed.) *Convict Workers*.

## Chapter 2

### **Grist to the Mill: Bushrangers as Convict Migrants.**

As we have seen, over the last 30 years the Australian "nationalist interpretation" of the convicts as "innocent and manly"<sup>1</sup> has been replaced by a new historiography pioneered by the works of M.Clark, A.G.L.Shaw and L.Robson.<sup>2</sup> This revision, however, has succeeded in substituting one gross distortion for another; a worthless criminal 'cargo' for Wood's enslaved 'village Hampdens'. The recent publication of *Convict Workers* has provided a much needed revaluation of this literature.<sup>3</sup> In this important study S.Nicholas and P.Shergold argue that it is the qualitative and often abstract interpretation of data, rather than the quantitative approach adopted by Robson and Clark, that requires critical analysis. Thus, while endorsing the latter's broad statistical findings, they attack the manner in which this data has been contorted to fit a view of nineteenth century crime which is essentially based on the "colourful descriptions of middle class English 'moral entrepreneurs'".<sup>4</sup> This, coupled with an over emphasis on the offences committed by convicts, has resulted in the now widely accepted view that transportees were over-whelmingly drawn from the 'professional criminal classes'. To a large extent this distortion has been succoured by the limited and conservative nature of the historiography of nineteenth century British crime.<sup>5</sup> In more recent years, however, there have been a number of analytical studies published in the United Kingdom which have found little evidence to support the traditional notion of the existence of a 'criminal class' in the nineteenth century.<sup>6</sup> Until the publication of *Convict Workers* Australian convict history had failed to absorb the implications of this changing debate. As Nicholas and Shergold stress, the most serious deficiency in the convict histories has been the lack of a detailed analysis of convict occupations and literacy rates. This data did not fit the traditional view of the Georgian and early

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<sup>1</sup> G.A.Wood, 'Convicts', *J.R.A.H.S.*, Vol.8 (1922) pp.177-208.

<sup>2</sup> C.M.H.Clark, 'The origins of the convicts transported to Eastern Australia, 1787-1852', *Historical Studies of Australia and New Zealand*, Vol.7 (1956) pp.121-135 and 314-327; L.L.Robson, *The Convict Settlers of Australia*, (Melbourne University Press, Carlton, Victoria 1976) and A.G.L.Shaw, *Convicts and the Colonies*, (Faber, London, 1966).

<sup>3</sup> S.Nicholas (Ed.), *Convict Workers*, (Cambridge University Press, Cambridge, 1988).

<sup>4</sup> S.Nicholas and P.Shergold, 'Unshackling the Past' in S.Nicholas (Ed.), *Convict Workers*, p.5.

<sup>5</sup> See in particular J.J.Tobias, *Crime and Industrial Society in the 19th Century*, (Penguin, London, 1967).

<sup>6</sup> D.Philips, *Crime and Authority in Victorian Britain*, (Croom Helm, London 1977), D.Jones, *Crime, Protest, Community and Police in Nineteenth Century Britain*, (Routledge and Kegan Paul, London, 1982) and G.Rudé, *Criminal and Victim: Crime and Society in Early Nineteenth Century Britain*, (Oxford University Press, Oxford, 1985).

Victorian criminal, it was thus ignored by Robson and Shaw and subsequently by those who endorsed their revision.<sup>1</sup>

*Convict Workers* offers a comprehensive re-assessment of Australia's early white history. The central aspect of this work is Nicholas and Shergolds' detailed re-evaluation of the convicts as potentially productive workers rather than incompetent criminals. The radical findings of their investigation are outlined under the following heads of discussion.

**Convict occupations:** In a detailed analysis of the indents of over 19,000 convicts transported to New South Wales between 1817 and 1840 Nicholas and Shergold enumerated over 1000 separate occupations. They argue that this variety alone is a strong indication of the validity of their data. Cross tabulation with counties of trial and literacy rates produced further confirmation that the information recorded in the indents was reliable. For example, they found that 66 per cent of the brass founders were transported from Warwickshire, 48 per cent of the cotton spinners from Lancashire and 70 per cent of the potters from Staffordshire. Similarly, analysis of the literacy data matched the prior expectation that a higher proportion of white collar workers and artisans could read and or write than was the case for the unskilled urban and rural occupational groups. Further confirmation of data validity was gained through analysis of the 1828 New South Wales muster. They found that 70 per cent of the skilled urban workers and 60 per cent of the skilled builders were occupying the same jobs in Australia as recorded in their indents. Finally, they found that the proportion of male convicts in each skill category approximates with a male skill breakdown of the 1841 census.<sup>2</sup> Nicholas and Shergold conclude that convicts were not members of a professional criminal underworld, but were drawn from the British and Irish working classes.<sup>3</sup> They claim support for these findings in the more recent historiography of nineteenth century British crime.<sup>4</sup>

**Convicts as migrants:** As convict indents record native place as well as place of trial they are an important source of inter-country, inter-county migration data for a period in

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<sup>1</sup> Nicholas and Shergold, 'Unshackling the Past', p.5.

<sup>2</sup> Nicholas and Shergold, 'Convicts as Workers', in S.Nicholas (Ed.), *Convict Workers*, p.70-71. N.B. Two skill classifications were used, Armstrong's and Nicholas/Shergolds', see below.

<sup>3</sup> For a similar conclusion based on an assessment of Scottish convicts see I.Donnachie, 'The Convicts of 1830: Scottish Convicts Transported to New South Wales', *The Scottish Historical Review*, Vol.65, No.179 (1986) p.39.

<sup>4</sup> Rudé, *Criminal and Victim*, pp.125-126.

which the traditional sources of this information are particularly sparse.<sup>1</sup> The Robson/Clark revision has interpreted this data as support for the popular nineteenth century notion that much rural crime was committed by organized gangs of itinerant urban thieves.<sup>2</sup> This assumption plays an important subsidiary role in eroding Wood's maligned rural convicts thesis and secondly, in inflating an urban underworld view of transportees beyond the confines of the major cities. The Nicholas/Shergold re-interpretation of this data utilizes logit models based on modern migration theory. In stark contrast to the established literature, they argue that their predicted and actual model results demonstrate that convict migrants were more likely to be skilled and literate than those convicted in their county of birth.<sup>3</sup>

**Educational levels of convicts:** As we have seen data relating to convict literacy levels threatened to contradict the transportation, criminal class nexus established by the Robson/Shaw revision, and thus has largely been ignored. Nicholas and Shergold argue that the transportees were "better educated than the 'average' English worker left behind in Britain".<sup>4</sup> They base this conclusion on a county by county comparison of the convict data with returns from the Registrar General. They also argue that these results corroborate their broader conclusions as the higher literacy rate for transportees can be explained by the sex, urban, skill bias they have found to be characteristic of their convict sample.<sup>5</sup>

**Height and productivity of convicts:** Drawing on recent demographic and medical research, Nicholas and Shergold note that height by age is now generally accepted to be a good indicator of health and "nutritional status". They claim that since convict indents provide information on height and sex for a variety of ages and regional and occupational groups they are a rich source of data. They lament the poor use that has been made of this information in the convict histories.<sup>6</sup> When they analysed their data Nicholas and Shergold found that although there were significant regional and national differences in the heights of mature convicts (aged 25 or over), their data for males compared favourably with the heights of British males recruited into the

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<sup>1</sup> S.Nicholas and P.Shergold, 'Intercounty labour mobility during the industrial revolution: evidence from Australian transportation records', *Oxford Economic Papers*, No.39 (1987) pp.28-43.

<sup>2</sup> Robson, *The Convict Settlers of Australia*, p.49; Shaw, *Convicts and the Colonies*, 159-160, M.B. and C.B. Schedvin, 'The Nomadic tribes of Urban Britain : A prelude to Botany Bay', *Historical Studies*, Vol.18 (1978) pp.254-276; *PP.* 1819 (579) VII and *PP.* 1839, (169) IXX, pp.19-37.

<sup>3</sup> Nicholas and Shergold, 'Convicts as Migrants', in S.Nicholas (Ed.), *Convict Workers*, p.56.

<sup>4</sup> Nicholas and Shergold, 'Convicts as Workers', p.75.

<sup>5</sup> Nicholas and Shergold, 'Convicts as Workers', p.75-76.

<sup>6</sup> See for example R.Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia 1787-1868*. (Pan, London, 1988) p.174.



Georgian and early Victorian army. Nicholas and Shergold claim that the variations that they found in the terminal heights of convicts were compatible with the regional data for the British Isles and conclude that "the convicts transported to New South Wales were not short by contemporary British and Irish standards." Thus, they reason that the nutritional status of convicts was at least as good as the workforce from which the latter were drawn and therefore the labour productivity of transportees was equivalent to British working men and women.<sup>1</sup>

**Convict offences:** Both Robson and Shaw devoted much space to the nature of the offences committed by the convicts. Robson's work in particular provided a useful survey of the proportion of transportees sentenced for various types of crimes. Beyond this initial structuring, however, there is little sustained empirical analysis in either of these works. Instead both authors choose to illustrate their argument with extracts from individual convict records and Parliamentary Papers. This qualitative evidence is selectively used to paint a 'Dickensian' picture of transportees.<sup>2</sup> In contrast, Nicholas and Shergold limit their analysis of offences to an assessment of work related theft, that is stealing trade specific tools; job related goods; or stealing from the work place, master or other employer. This analysis was conducted as a cross check on the validity of their occupational data. Although the scope of their assessment was constrained by the nature of the descriptive information in the offence section of the indent, the returns were complete enough to suggest that "a significant proportion of crime was work related."<sup>3</sup> Again, this conclusion was substantiated by the findings of G. Rudé, D. Philips and I. Donnachie.<sup>4</sup>

**Convicts as human capital:** In general, Nicholas and Shergold argue that, compared with other immigrants to Australia, the convicts possessed a unique age, sex, skill distribution. They claim that their analysis of heights and the health care provided in both the hulks and on the voyage out, meant that by the standards of other free and unfree labour flows the convicts were physically fit. Further, they favourably contrast transportation with early nineteenth century free emigration, arguing that since convicts left their families at home, the embryonic Australian state was spared the expense of supporting unproductive dependants.<sup>5</sup> They conclude that the impressive growth

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<sup>1</sup> Nicholas and Shergold, 'Convicts as Workers', p. 78-82.

<sup>2</sup> Robson, *The Convict Settlers of Australia*, pp.29-73, 179 and 187 and Shaw, *Convicts and the Colonies*, pp.146-165.

<sup>3</sup> Nicholas and Shergold, 'Convicts as Workers', p.65.

<sup>4</sup> Philips, *Crime and Authority*, p.180-189; Rudé, *Criminal and Victim*, pp.23, 26, 33 and 80 and I. Donnachie, 'Scottish Criminals and Transportation to Australia, 1786-1852', *Scottish Economic and Social History*, Vol.4 (1984) p.30.

<sup>5</sup> Nicholas and Shergold, 'Convicts as Migrants', in S. Nicholas (Ed.), *Convict Workers*, pp.59-60.

performance of colonial Australia "was highly correlated with the quality and quantity of its convict and ex-convict workforce".<sup>1</sup>

In terms of this thesis the importance of the Nicholas/Shergold re-assessment is two fold. First, it has facilitated the identification of convict bushrangers by vastly enriching the range of comparative data. Secondly, it has provided the opportunity to test the popular mythology of bushranging against a coherent history of convict settlement.

The proceeding analysis is based upon an extensive collection of social data relating to 325 bushrangers. The selection criteria employed in the identification of these subjects was a definition of bushranging supplied by James MacArthur to the 1837 Select Committee on Transportation.<sup>2</sup> All the individuals incorporated in the study operated in Van Diemen's land between 1806 and 1846. The majority, 304, proved to be convicts still under sentence who had been transported to Eastern Australia from the British Isles or other British colonies. Seven further cases had previously been transported but were free by servitude during their sojourn in the bush. Another six had been sentenced to transportation by Australian courts and eight were freemen with no convict record. All cases were male.<sup>3</sup> The major sources used to identify these individuals were colonial newspapers, official correspondence and the Van Diemen's Land death register. The database employed in the proceeding analysis was compiled by matching bushrangers to the relevant entries in the convict registers. Ignoring the eight freemen, the data collected was thus broadly comparable to the returns contained in published studies of much larger convict samples.

It is necessary, however, to enter a few notes of caution. While both Robson's and Nicholas and Shergolds' data was obtained by sampling, data relating to bushrangers was case specific.<sup>4</sup> Therefore, collection of the latter was not dependent on the number of convicts transported to Australia in each year. When the proportion of convicts in the

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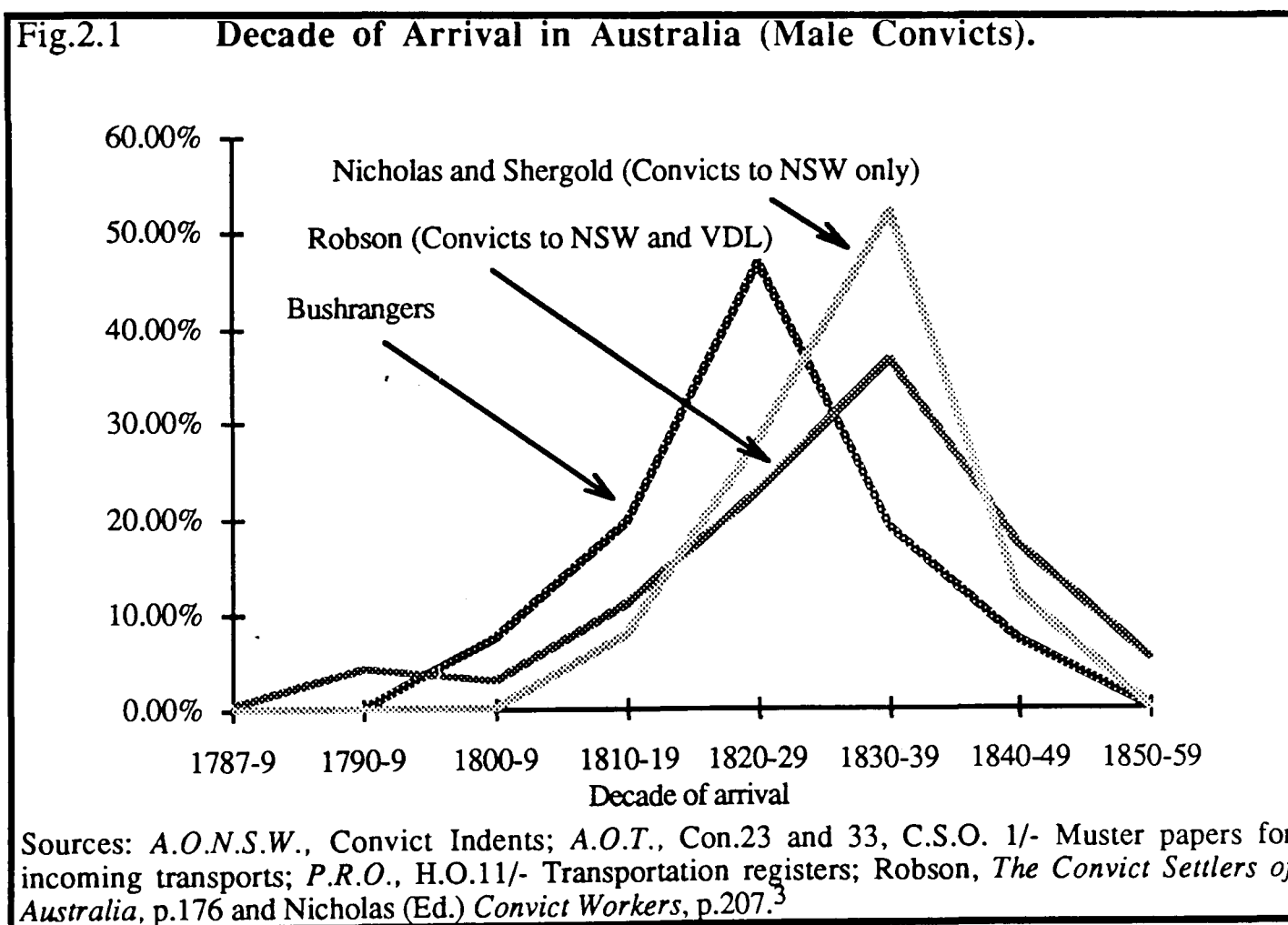
<sup>1</sup> Nicholas, 'A New Past', in S.Nicholas (Ed.), *Convict Workers*, p.201.

<sup>2</sup> Evidence of James MacArthur, 'Select Committee on Transportation', *P.P.* 1837 (518) XIX, p.198: "Bushranging [as opposed to absconding] was where men having runaway procure arms and form a party...". Thus the criteria used in this study to define bushrangers has been (i) the individual must be illegally at large, (ii) in company, (iii) at least one member of the group must be equipped with fire arms.

<sup>3</sup> Information on the bushrangers was obtained from the following sources; *Tasmanian State Archives* (hence forth *A.O.T*) Con.18, 23, 31 & 33; *Hobart Town Gazette*, weekly list of absconded convicts; *New South Wales State Archives* (hence forth *A.O.N.S.W.*), Convict Indents, *La Trobe Library*, Melbourne, Death Register for Tasmania, *Public Records Office*, London, (hence forth *P.R.O.*) Convict Musters and HO/26 & 27 series; *Scottish Records Office*, West Register House Edinburgh (hence forth *S.R.O.*) Precognitions and trial records.

<sup>4</sup> Robson sampled every twentieth convict in the HO/11 registers, Nicholas Shergold sampled indents from selected convict transports arriving in New South Wales between 1817 and 1840. Robson, *The Convict Settlers of Australia*, pp.161-167, Nicholas and Shergold, 'Convicts as Migrants', pp.44-45.

three data sets is compared against decade of arrival in Australia, it becomes evident that the bushrangers are over represented in the first three decades of the nineteenth century and under represented in the post 1830 period (see fig.2.1). This is important as the regional basis of transportation changed over time. For example, the proportion of convicts tried in London steadily declined over the period while the numbers convicted in the major industrial cities of the north rose.<sup>1</sup> The nature and proportion of transportable offences and convict occupations were also affected by socio-economic factors as diverse as the introduction of new manufacturing processes and changes in fashion.<sup>2</sup> Comparison of the data sets must attempt to take account of these variables.



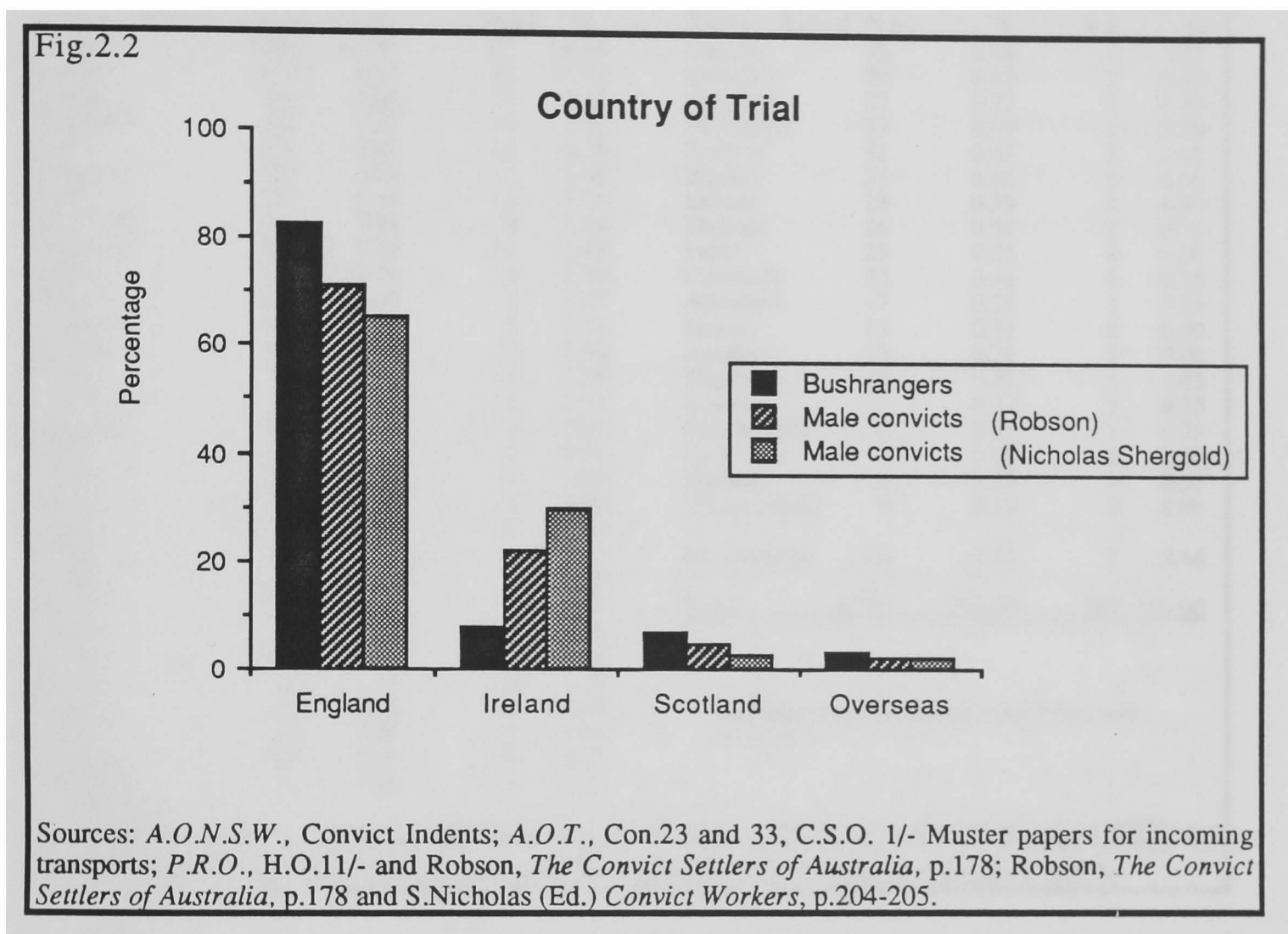
One further important difference in the structure of the data needs to be discussed. No Irish transports sailed directly to Van Diemen's Land before 1840 and although some

<sup>1</sup> Robson, *The Convict Settlers of Australia*, p.11 and *P.P.* 1810, (45) XIV; 1812, (97) X and 1817 (276) XVI.

<sup>2</sup> Philips, *Crime and Authority*, pp.187-191.

<sup>3</sup> Note: Robson's returns are based on dates of departure not arrival. The resultant distortion, however, is small, involving a few convicts transported at the end of each decade. For the purpose of this study it is not considered significant.

convicts convicted in Ireland did arrive via New South Wales before this date, their numbers were small.<sup>1</sup> As Robson drew his data from transports arriving in both colonies and Nicholas/Shergold purely from New South Wales, there is a significant difference in the proportion of Irish in each data set. This is illustrated in fig.2.2. Thus, caution needs to be exercised when analysing comparative which includes information relating to men convicted in Ireland.



**Bushrangers as convicts:** A comparison of data relating to counties of trial was first utilized as a general test of compatibility. Table 2.1 compares the number of bushrangers and male convicts in Robson's sample on this basis. A visual comparison of the two sets of data provides a strong indication that the bushrangers were regionally representative of the convicts sent to Van Diemen's Land. As a group, they do not appear to be disproportionately dominated by a particular type of convict, and certainly not by Londoners. In fact, given the bias in bushranger arrival dates, discussed above, the slight under representation of London convictions is more significant than these returns indicate. There is also a noticeable bunching of cases in the industrialized

<sup>1</sup> J.Williams, 'Irish Convicts', *T.H.R.A.*, Vol.19, NO.3, (1972) p.102. In total Williams counted 1072 arrivals from Ireland between 1803 and 39, of these 805 were male.

counties of Lancashire and and Warwickshire and two counties close to London, Kent and Surrey. These differences, however, are not great.

Table 2.1 Counties of trial (males only)

Place	Tried	Robson's sample		Bushrangers		Place	Tried	Robson's sample		Bushrangers	
		No.	%	No.	%			No.	%	No.	%
London		1062	22.24	57	19.86	Cambs.		42	0.88	4	1.39
Lancs.		414	8.67	33	11.50	Oxford		39	0.82	2	0.70
Yorks.		241	5.05	13	4.53	Hereford		37	0.77	1	0.35
Warwick		185	3.87	16	5.57	Northumb.		33	0.69	2	0.70
Surrey		176	3.69	13	4.53	Bedford		31	0.65	3	1.05
Gloucs.		167	3.50	7	2.44	Bucks.		31	0.65	0	0.00
Kent		151	3.16	15	5.23	Dorset		28	0.59	0	0.00
Over seas		140	2.93	9	3.14	Durham		26	0.54	2	0.70
Somerset		132	2.76	10	3.48	Perth		25	0.52	0	0.00
Staffs.		129	2.70	4	1.39	Cornwall		22	0.46	1	0.35
Essex		117	2.45	3	1.05	Aberdeen		17	0.36	1	0.35
Cheshire		108	2.26	5	1.74	Hunts.		15	0.31	0	0.00
Norfolk		107	2.24	0	0.00	Ayrshire		15	0.31	0	0.00
Hants.		92	1.93	4	1.39	Dumfries		13	0.27	3	1.05
Lothian		90	1.88	5	1.74	Inverary		13	0.27	2	0.70
Lanarks.		89	1.86	6	2.09	Cumberland		10	0.21	1	0.35
Wilts.		87	1.82	2	0.70	Inverness		7	0.15	2	0.70
Sussex		81	1.70	4	1.39	Stirling		6	0.13	1	0.35
Worcs.		80	1.68	4	1.39	Westmorland		6	0.13	0	0.00
Devon		78	1.63	7	2.44						
Wales		77	1.61	1	0.35	No response		30	0.63	7	2.44
Lincs.		71	1.49	4	1.39						
Suffolk		71	1.49	3	1.05	Total		4776	100.00	287	100.00
Leics.		66	1.38	5	1.74						
Notts.		66	1.38	5	1.74						
Derbys.		58	1.21	3	1.05						
Herts.		53	1.11	6	2.09						
Berks.		49	1.03	5	1.74						
Northants.		47	0.98	1	0.35						
Shrops.		46	0.96	5	1.74						

*Excluding convicts transported from Irish counties.*

Sources: A.O.N.S.W., Convict Indents; A.O.T., Con.23 and 33, C.S.O. 1/- Muster papers for incoming transports; P.R.O., H.O.11/- and Robson, *The Convict Settlers of Australia*, p.178.

**Bushrangers as workers:** The cornerstone of the Nicholas Shergold re-evaluation is firmly based on their interpretation of occupational data. While their work has expanded the criteria against which to test the convict bushrangers, it has also thrown analysis of convict skills to the fore of the debate. It has thus proved necessary to exercise a good deal of care in the collection, preparation and coding of data relating to bushranger occupations. This was particularly true of the 10 per cent of cases where conflicting information was obtained.

This most commonly occurred in indents which listed two occupations for the same individual. Frequently this presented few difficulties as the jobs were clearly related, for example, servant and groom. Sometimes, however, problems arose in coding this

type of dual occupation. For instance, many convicts from the rural sector had both a specific and general occupation recorded in their indent, the most usual form of this was ploughman and agricultural labourer. A decision was made to code such cases twice, first on the most skilled variable and second on the least. So the above example would be listed first as skilled rural and second as unskilled rural. Other cases in this category included convicts with two unrelated occupations, for example Alexander McGellevray was recorded as both a miner and a shepherd.<sup>1</sup> Such cases posed a problem as both occupations were skilled but belonged to separate industries. It was decided to reject Robson's approach to this problem, record first occupation only.<sup>2</sup> Instead, miner was adopted as the first skill and shepherd placed in the second skill category. This solution was to an extent arbitrary, but it had the advantage of retaining all the relevant information.

Further problems were encountered with soldiers' indents. 'Soldier' was rarely listed as an occupation, presumably as, unlike sailors, there was little use for this skill in the colony. Former trades or other skills plied in the forces were therefore usually entered instead. Examples include: Peter Lennon, 'African Corps', court-martialled at the Cape of Good Hope, but recorded as a tailor; John Donovan, court-martialled for desertion in Upper Canada, listed as a labourer, and William Sainter a marine, also tried for desertion but listed as a woolcomber.<sup>3</sup> In such cases it was decided to record the occupation given in the indent first and 'soldier' second. Other cases were still more complicated. For example, John Fisher, recorded in the indent as a butcher, confessed that he was "last at horse dealing in the army". His statement was corroborated by his gaol report: "convicted before and a deserter", and his offence, "horse stealing".<sup>4</sup> Thus, strictly speaking, he has three trades. In this case, butcher was classified as the first and soldier as the second, but a third classification was considered too cumbersome, and therefore for the purpose of this analysis, horse dealer was ignored.

Where possible information in the indents was supplemented by reference to trial records. In the majority of cases this confirmed the validity of the indent entries. There were, however, a few cases where the data conflicted. Matthew Reid's indent, for example, records his occupation as a labourer while in his precognition he states that he was a drover employed by John McGregor of Glengyle.<sup>5</sup> In such cases trial

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<sup>1</sup> Alexander McGellevray, per *Phoenix* (2), No. 379, *Hobart Town Gazette*, 12 August 1825.

<sup>2</sup> Robson, *The Convict Settlers of Australia*, p.182.

<sup>3</sup> Peter Lennon per *Guildford*, No. 140, A.O.T., Con.13/2, John Donovan per *Lady Lyndoch*, No. 955, A.O.T., Con.35/5 and William Sainter per *Andromeda* (I), No. 800, A.O.T., Con.23.

<sup>4</sup> John Fisher per *Asia I* (2), No. 237, A.O.T., Con.31 and *Hobart Town Courier*, 26 June 1838.

<sup>5</sup> Matthew Reid per *Lady Lyndoch*, No.1159, A.O.T. Con 18 and S.R.O., AD14/35/234.

information was treated in the same manner as that entered in the indent. Thus, the most skilled occupation, drover, was recorded first and the least skilled labourer, second.

Finally, the men re-transported from New South Wales also presented problems. Although occupational data was recorded for these individuals upon arrival in Van Diemen's Land, comparison with the information in their original indents indicates that colonial job restructuring was common amongst re-transportees. John Roach, for example is recorded in his original indent as a whip maker, but his trade appears as servant when re-convicted and sent to Van Diemen's Land.<sup>1</sup> Thus, for the purposes of this analysis, data recorded for re-transportees upon arrival in Van Diemen's Land was assumed to refer to jobs plied in New South Wales and not necessarily those exercised upon arrival. This secondary information was thus ignored in favour of the original recorded occupation.

Using Armstrong's skill classification the two bushranger categories, maximum skill and minimum skill plus soldiers, were compared with Nicholas and Shergolds' returns. Nicholas and Shergolds' use of male data from the 1841 English census as a comparison was retained (see fig.2.3). The results indicated that (i) there was little variation between the minimum and maximum bushranger skill categories. (ii) That the percentage of both skilled and semi-skilled workers in each data set was remarkably similar. (iii) That there were approximately the same percentage of unskilled convicts in the bushranger and male convict categories. (iv) That unskilled workers were over represented in the bushranger and male convict categories compared to the census data. (v) That the professional and middling skill levels were under represented in the convict data and that this was particularly so of bushrangers.

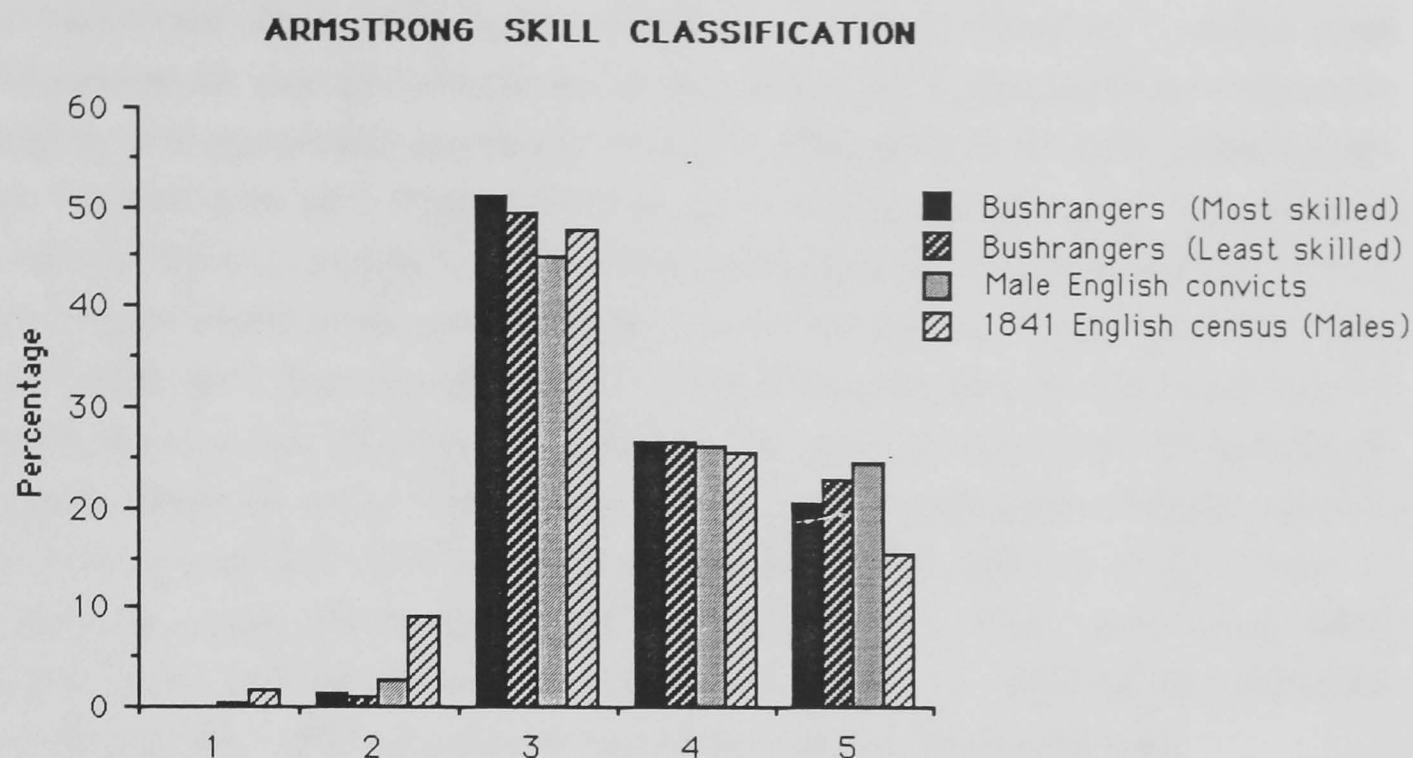
Nicholas Shergolds' convict skill classification was employed to provide a more detailed breakdown ( see fig.2.4). This confirmed (i) that all three skilled categories, building, urban and rural, correlated closely with the 1841 English census data. That while there was a close fit with the New South Wales convict data, the skilled building and urban categories were slightly under represented amongst convict bushrangers. The attention paid to the second occupation in the skilled rural category would appear to

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<sup>1</sup> John Roach, per *Mangles* (NSW) and *John Byng* (VDL), No.1969, *Hobart Town Gazette*, 21 April 1846 and A.O.N.S.W., Convict Indents.



Fig.2.3

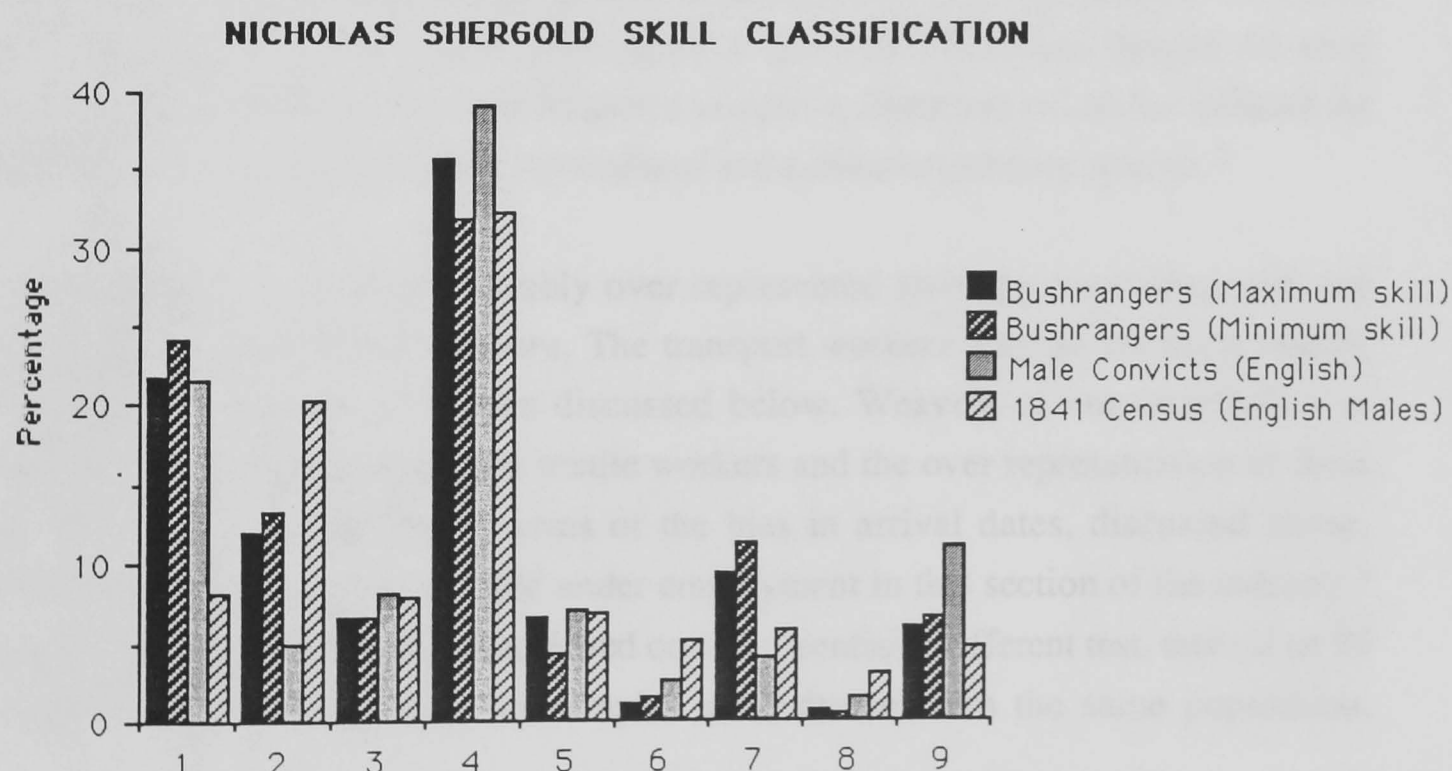


1=Professional, 2=Middling, 3=Skilled, 4=Semi-skilled, 5=Unskilled.

Maximum skill value, Pearson correlation coefficient  $r^2 = 0.988$  (Convicts)  $0.976$  (Census)

Minimum skill value, Pearson correlation coefficient  $r^2 = 0.996$  (Convicts)  $0.966$  (Census)

Fig.2.4



1=Unskilled Urban, 2=Unskilled rural, 3=Skilled building, 4=Skilled urban, 5=Skilled rural, 6=Dealers, 7=Public service, 8=Professional, 9=Domestic service.

Maximum skill value, Pearson correlation coefficient  $r^2 = 0.947$  (Convicts)  $0.856$  (Census)

Minimum skill value, Pearson correlation coefficient  $r^2 = 0.906$  (Convicts)  $0.817$  (Census)

Sources: A.O.N.S.W., Convict Indents; A.O.T. Con.23 and Con.33; *Hobart Town Gazette*; and S.Nicholas and P.Shergold, 'Convicts as Workers' in S.Nicholas (Ed.), *Convict Workers*, pp.71-72 and W.A.Armstrong 'The Use of Information About Occupation' in E.A.Wrigley (Ed.) *Nineteenth Century Society: Essays in the Use of Quantitative Method for the Study of Social Data* (Cambridge University Press, Cambridge, 1972) pp.191-310.



have produced a distortion. The general occupational description 'agricultural labourer' is henceforth taken to be superfluous where it is preceded by a skilled rural occupation, for example, ploughman, drover, hedger. (ii) Unskilled urban workers are slightly over represented amongst bushrangers compared to the English convicts. Even on the minimum skill rating, however, this difference is not great. The analysis confirms that this category is over represented amongst convicts as a whole. (iii) There are proportionally fewer unskilled rural convicts amongst the bushrangers than in the census but more than amongst the New South Wales convicts. The reverse is true for domestic servants. (iv) Defence personnel are over represented in the bushranger returns, hence the greater proportion of public servants compared to English convicts and the census data. This can be accounted for by the relatively large number of bushrangers who were transported during the Napoleonic Wars, an era which saw a higher level of male participation in the armed services. (v) Although the correlation coefficients have fallen on this more rigorous analysis, they are still high.

Robson's classification was employed as a secondary comparative check on the data. This test differed from those previously conducted in that the category criteria used by Robson, *Agricultural, Transport, Metal manufacture etc.* relate to the industry of employment rather than the degree of skill inherent in each job requirement.<sup>1</sup> As can be seen from table 2.2, the results were again a 'good fit'. This was despite the over representation of Irish convicts in Robson's sample, a distortion which has inflated the numbers of convicts in the latter's *Agricultural* and *Labourer* category returns.<sup>2</sup>

The two groups of workers notably over represented amongst the bushrangers are *Transport* and *Textile manufacture*. The transport workers were in the main sailors, bargeman and waterman and are discussed below. Weavers of one description or another predominate amongst the textile workers and the over representation of these men can best be explained in terms of the bias in arrival dates, discussed above, coinciding with periods of chronic under employment in this section of the industry.<sup>3</sup> Overall, the positive correlation achieved on this essentially different test, there is an 84 percent probability that the two samples were drawn from the same population,

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<sup>1</sup> W.A.Armstrong 'The Use of Information About Occupation' in E.A.Wrigley (Ed.) *Nineteenth Century Society: Essays in the Use of Quantitative Method for the Study of Social Data* (Cambridge University Press, Cambridge, 1972) p.191.

<sup>2</sup> Nicholas and Shergold, 'A Labour Aristocracy in Chains', in S.Nicholas (Ed.), *Convict Workers*, p.103.

<sup>3</sup> E.P.Thompson, *The Making of the English Working Class*, (Pelican books, Middlesex, 1974) pp.299-326 and I Donnachie, 'The Convicts of 1830', p.42.

confirmed that the range of skills possessed by the bushrangers were remarkably similar to those of their fellow convicts.

Table 2.2 Industry of Employment

Industry	Bushranger	Robson's Data	Expected	Observed	Chi <sup>2</sup>
Agricultural and other primary	61	929	61	62.603	0.041
Labourer	51	798	51	53.775	0.143
Transport	41	477	41	32.144	2.440
Metal manufacture	15	293	15	19.744	1.140
Textile worker	21	256	21	17.251	0.815
Personal	16	183	16	12.332	1.091
Worker in wood	12	182	12	12.264	0.006
Tanner, shoemaker	8	165	8	11.119	0.875
Defence	7	157	7	10.579	1.211
Building and construction	19	296	19	19.947	0.045
Maker of textile goods	9	102	9	6.873	0.658
Food & Drink	5	92	5	6.199	0.232
Commercial	5	83	5	5.593	0.063
Other (observed value < 5)	17	246	17	16.577	0.011
No Return	31	460	31	30.998	0.000
Total	318	4719			8.771

H<sub>0</sub> : Independence between bushranger and convict occupational distribution.

H<sub>A</sub> : Correlation between bushranger and convict occupational distribution.

$$d.f. = (15-1) \times (1-1) = 14$$

$$\text{Chi}^2 = 8.771$$

Probability under H<sub>0</sub> that  $X^2 \leq \text{Chi Square} = 0.84$ .

Sources: A.O.N.S.W., Convict Indents; A.O.T., Con.23, 31 and 33, C.S.O. 1/- Muster papers for incoming transports; *Hobart Town Gazette*, *passim*; Robson, *The Convict Settlers of Australia*, p.181 and *Census 1951; Classification of Occupations*, (London, H.M.S.O.1956).

**Data validity:** The regional distribution of convicts and the relatively small size of the data set restricted systematic testing of occupational validity. While a cross check of occupation by location, for example, revealed that the four cotton spinners and the one factory lad were transported from either Lancashire or Lanarkshire and all of the six stocking weavers from Nottinghamshire or Leicestershire, trades which could be regionally located accounted for only small groups of bushrangers. There were less specific indications, however, that the data was valid. While the statistical breakdowns showed that the distribution of skills matched that of a larger convict sample, individual illustration under-scored the premise that this range in skill investment was typical of that found by Nicholas and Shergold. Included in the data set were both professionals (Thomas Pearson, for instance claimed to be a veterinary surgeon) and jobs with a low

skill requirement, such as, factory lad, bricklayer's labourer and sweep. It is also important to note that only one bushranger had "no trade" recorded on his indent. This was George Jefkins, aged only 15 on arrival.<sup>1</sup> The variety of occupations was another indication that the data was valid. In all over 90 different jobs were counted including many that were highly specialized, for example, whip maker, coach painter, saddle and harness maker, french polisher, glass cutter, gun lock filer, lapidary and watch barrel maker. It is difficult to believe that these jobs were 'inventions' of a scheming work-shy convict population. Finally, statements made by some convicts on arrival in Van Diemen's Land provided further confirmation that the data was accurate. For example:

Benjamin Ball, recorded as a groom, who stated that he "was last in the service of Bradley a Horse dealer".

John Brown, a mariner, who had last worked as an "Apprentice to Douglass & Robinson ship owners".

Edmund Daniels, another seaman, who claimed that he "was on board the Tonnant 80 guns at Trafalgar".

Joseph Charles Hall, a Shopman, who stated "when taken I was a Broker No. 6 Hatton Walk".

Nathan Horrocks, recorded as a "shoemaker, can cut" who said that he last lived "with Edward Williams a master Shoemaker".

William Steer, a bricklayer's labourer, who stated "I was last working in the Brickfields near the Canal Hounslow".<sup>2</sup>

**An aristocracy of labour in arms:** Included within the ranks of the skilled workers are many trades commonly associated with an 'aristocracy of labour': carpenter; sawyer; brass founder; watchmaker; shoemaker; hatter etc.<sup>3</sup> The concept of a convict élite in arms runs contrary to the orthodox view of the early Australian labour experience. The notion that such men could become bushrangers thus presents a challenge not only to the literature of convict bushranging, but also to the somewhat entrenched view that the 'élite' remained aloof from the crude and small scale rebellions of the mass of convicts.<sup>4</sup> An attempt to identify an élite distinguished from other workers by a set of largely self defined values is in practise, however, no easy task.<sup>5</sup>

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<sup>1</sup> George Jefkins, per *Commodore Hayes*, No.227, *Hobart Town Gazette*, 11 January 1833.

<sup>2</sup> Benjamin Ball, per *Marmion*, No.1037; John Brown per *Phoenix*, No.733; Edmund Daniels per *Asia I* (4), No.453; Joseph Charles Hall per *Bengal Merchant*, No.846; Nathan Horrocks per *Asia I* (2), No.785 and William Steer per *Woodford*, No.945, all A.O.T., Con.31.

<sup>3</sup> Thompson, *The Making of the English Working Class*, pp.262 and 264 and R.Grey, *The Aristocracy of Labour in Nineteenth Century Britain 1850-1900*, (Macmillan, London, 1981) pp. 8 & 30-39.

<sup>4</sup> H.McQueen, 'Convicts and Rebels', *Labour History*, Vol.15 (1968) pp.19-26.

<sup>5</sup> G.Crossick, *An Artisan Elite in Victorian Society*, (Croom Helm, London 1978) pp.305-307.

Many of the artisan trades viewed as respectable in the early part of the century lost their high status image in the period covered by this study. Such trades were at any rate, microcosms of hierarchy. It is difficult to distinguish from the indent who among the tailors, for example, were masters, journeymen or apprentices. Many others trades were split between what E.P.Thompson termed the 'honourable' and 'dishonourable' sections. The honourable producing luxury and quality goods and the dishonourable the

whole range of 'cheap and nasty' ready made clothing, gimrack or plain furniture, veneered workboxes and cheap looking-glasses, sub-contract work (by 'lumpers') in the building of churches, contract work for the Army or Government.<sup>1</sup>

Nicholas and Shergold take note of these considerable difficulties. They maintain that "deciding who were labour aristocrats in any particular historical period is, at least in part, a quantitative exercise." From their understanding of the literature they identify the occupational and literacy data in the indent as suitable criteria upon which to base a count of probable labour aristocrats in their convict sample. As a cross check, the occupational data from Crossick's study of Kentish London was used to form logit models "to test the validity of using literacy to proxy the labour aristocracy."<sup>2</sup> In conclusion, they estimate that between six and nine per cent of the convicts sent to New South Wales can be termed labour aristocrats.<sup>3</sup>

Because of the small number of cases, and problems with the literacy returns for convicts sent to Van Diemen's Land (outlined below), it is impossible to apply such a quantitative approach to this study. There is other qualitative evidence, however, that suggests that a small group amongst the bushrangers possessed skills which set them apart from their other convict workers. Richard Gill, for example, a collier from the Black Country, occupied a skilled position in an industry which maintained comparatively high wages throughout the transportation era. As a coal face cutter, he is distinguished from other transportees from the same industry who are described simply as miners or mine workers. It is to skilled men like Gill that the popular rhyme refers;

Colliers get gowd and silver,  
Factory lads get nowt but brass.<sup>4</sup>

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<sup>1</sup> Thompson, *The Making of the English Working Class*, p.277.

<sup>2</sup> Crossick, *An Artisan Elite in Victorian Society*, pp.105-133.

<sup>3</sup> Nicholas and Shergold, 'A Labour Aristocracy in Chains', pp.100-103 and Grey, *The Aristocracy of Labour*, p.25.

<sup>4</sup> Thompson, *The Making of the English Working Class*, p.268.

If wages alone can not be taken as an indicator of the independence of labour associated with an artisan élite we can point to other men who claimed occupations which commanded respect and status. John Werry, for example, a waterman from Greenwich was employed in a trade described by Crossick as forming a local élite amongst the workers of the river.<sup>1</sup> John Buchan Buchanan, an engine and machine maker from Ayrshire belonged to perhaps the classic 'rising' trade of the industrial revolution. When Buchanan was transported in the mid 1820s the skills of the 'engineer' were reported as important enough to attract the attentions of the recruitment agents of North American and European employers.<sup>2</sup> Although difficult to locate precisely, the indications are that amongst the skilled convicts described in Australia as 'mechanics', were a small group of bushrangers distinguished from other convict workers by their work status and an independence of labour built upon their experience of self-employment, wage bargaining and, in some cases, combination.

**Literacy, health and age of bushrangers:** Analysis of literacy rates was hindered by limited data returns. Ability to read, or read and write, was only recorded in Van Diemen's Land indents towards the end of the period covered by this study. In all, only 35 complete returns were located. The general trend these displayed, however, was similar to Nicholas and Shergolds' findings. In all, 46 percent of these bushrangers could read and write and 25 per cent read only. The comparable rates for English male convicts were 51 and 23 per cent.<sup>3</sup> These returns compare favourably with the 67-75 per cent estimate of rudimentary literacy for the British working class circa 1840.<sup>4</sup>

An analysis was also conducted of the heights of bushrangers using Nicholas and Shergolds' data as a comparison, see fig.2.5. Although the numbers of individuals in the younger age categories were too small to draw any valid conclusions, the data for those aged 18 or over was more reliable.<sup>5</sup> As can be seen, the mean heights for these categories were slightly greater than Nicholas and Shergolds' estimates. If we accept that height is a good indicator of health and nutritional status, we can conclude that upon transportation, the bushrangers were at least as healthy and potentially productive

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<sup>1</sup> John Werry, per Morley, No.461, *A.O.T.*, Con.23 and Crossick, *An Artisan Elite*, p.63.

<sup>2</sup> John Buchan Buchanan, per Rosyln Castle, No.1141, *A.O.T.*, Con.23 and Thompson, *The Making of the English Working Class*, p.270-272.

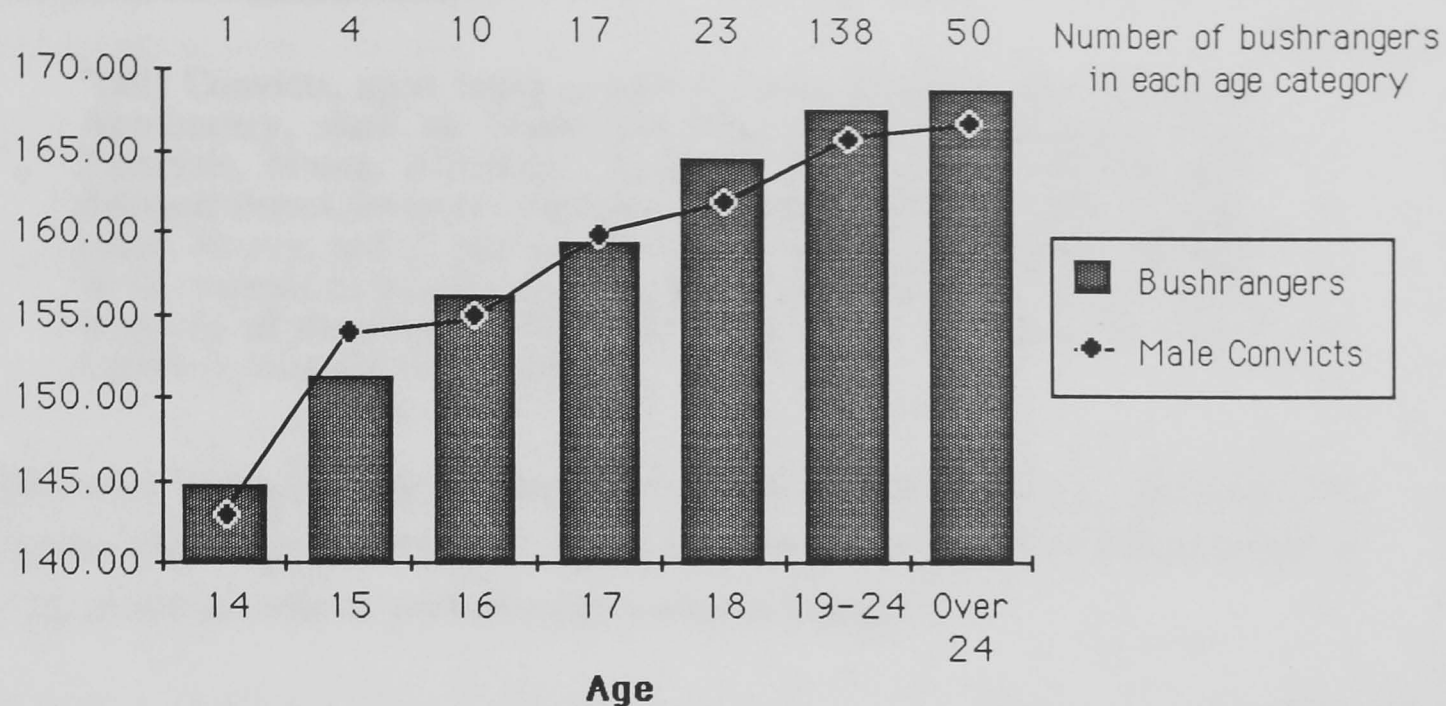
<sup>3</sup> *A.O.T.*, Con.35 and S.Nicholas (Ed.), *Convict Workers*, p.212.

<sup>4</sup> R.S.Schofield, 'Dimensions of illiteracy, 1750-1850' *Explorations in Economic History*, Vol.10 (1973) p.437. See also Donnachie, 'The Convicts of 1830', pp.36 and 38.

<sup>5</sup> The extent to which the data returns for youthful bushrangers are invalid is adequately illustrated by the absence of a clearly defined adolescent growth spurt.

Fig.2.5

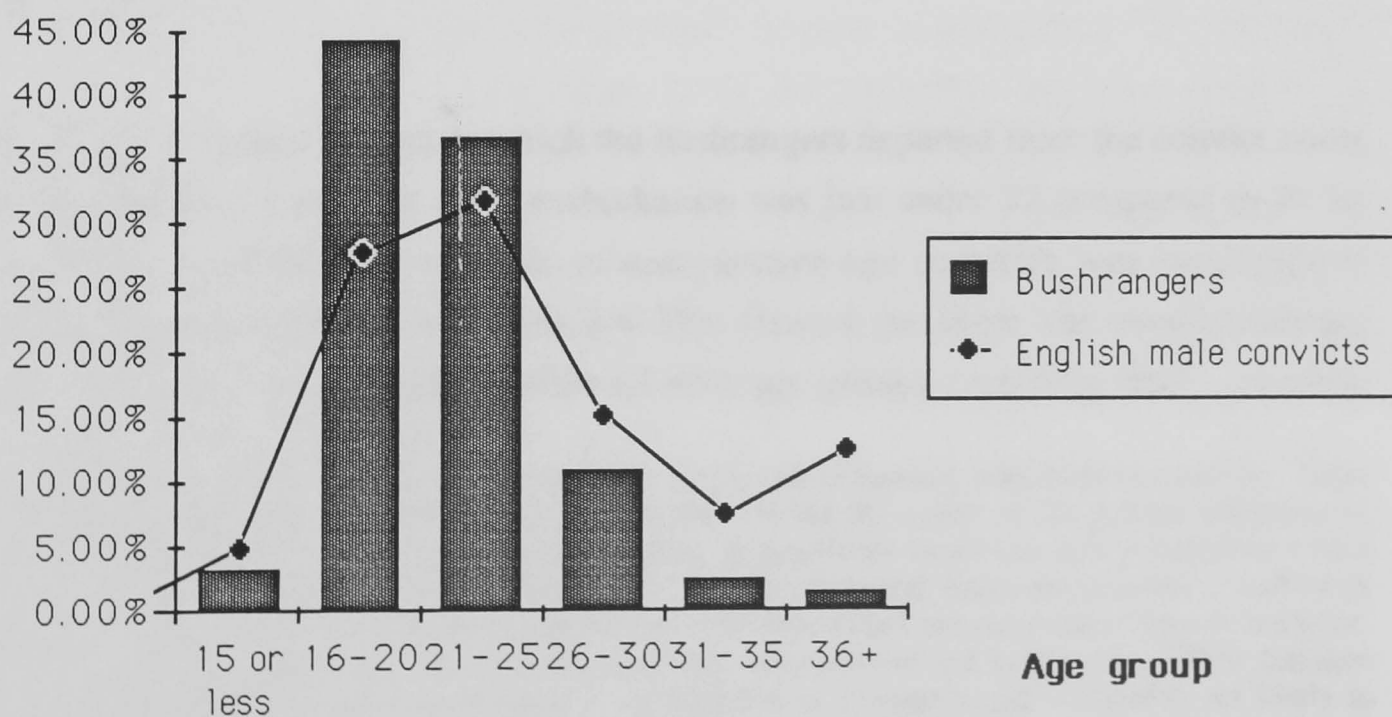
**HEIGHTS OF BUSHRANGERS (CM) COMPARED WITH NICHOLAS SHERGOLDS' ESTIMATES FOR MALE CONVICTS**



Sources: A.O.N.S.W., Convict Indents; A.O.T., Con.23 and 33, C.S.O. 1/- Muster papers for incoming transports and S.Nicholas and P.Shergold, 'Convicts as Workers', in Nicholas (Ed.), *Convict Workers*, pp.80-81.

Fig.2.6

**AGE STRUCTURE OF BUSHRANGER SAMPLE COMPARED TO NICHOLAS SHERGOLD DATA**



Sources: A.O.N.S.W., Convict Indents; A.O.T., Con.23 and 33, C.S.O. 1/- Muster papers for incoming transports and Nicholas (Ed.), *Convict Workers*, p.204.

as their fellow convicts.<sup>1</sup> We should also note that comprehensive health checks were ordered for all convicts prior to departure. To quote from the removal order issued by Whitehall to the local authorities:

"(all) Convicts, upon being examined by an experienced Surgeon or Apothecary, shall be found free from Pulmonary Consumption, Paralysis, Mania, Blindness, Epilepsy, Old Ulcers combined with diseased Bones, Inveterate Scrophula with Ulceration, Ophthalmia, Scald Head, Scurvy, and all putrid, infectious, or contagious Distempers; and in all respects fit to undergo a Voyage to Australia. Prisoners afflicted with any of the above Complaints, and Cripples requiring the aid of Crutches, must not be removed."<sup>2</sup>

Unlike other eighteenth and nineteenth century migrants the convicts embarked for Australia were subjected to health checks which were impressive by the standards of the day and in this respect the bushrangers were no exception.

Table 2.3 Marital Status (males only)			
	Single	Married	Parents
<b>Bushrangers</b>	81%	19%	10%
<b>Convicts (Robson)</b>	72%	28%	NA
<b>English convicts (Nicholas Shergold)</b>	75%	25%	15%

Sources: A.O.N.S.W., Convict Indents; A.O.T., Con.23 and 33, C.S.O. 1/- Muster papers for incoming transports; Robson, *The Convict Settlers of Australia*, p.183 and Nicholas (Ed.), *Convict Workers*, p.59.

Age is one important respect in which the bushrangers departed from the convict norm. On average their mean age upon embarkation was just under 22 compared to 26 for convicts as a whole.<sup>3</sup> An analysis of comparative age structure was conducted to provide a more detailed view, see fig.2.6. This showed that there was considerable age clustering in the 16-25 category, while all other age groups, including 'boys', are under

<sup>1</sup> There are two categories of factors which affect the growth of humans from birth to maturity. These are generally classified as genetic and environmental. While the extent of the genetic influence on growth is difficult to calculate, it is no longer held to be significant factor amongst populations with a 'close genetic relationship' e.g. North Europeans. The environmental factor incorporates a number of variables. Certain types of persistent stress, for example, can reduce the secretion of growth hormone. Others include nutrition, illness, socio-economic status, urbanization and family size. While nutrition is considered the most important of these, a combination of environmental influences are likely to effect the growth of children. R.H.Steckel, 'Slave Height Profiles from Coastwise Manifests', *Explorations in Economic History*, Vol.16 (1979) pp.365-367 and R.Floud, 'A Tall Story? the Standard of Living Debate', *History Today*, Vol.33 (1983) p.36.

<sup>2</sup> S.R.O., S.C.1/71/16.

<sup>3</sup> Robson, *The Convict Settlers of Australia*, p.9.

represented. This predominance of young adults is also reflected in the marital returns, see table 2.3. Upon embarkation the future bushranger was more likely to be single and childless than his convict co-travellers. If the bushrangers were comparatively fit their potential labour power was also enhanced by their youth.

Robson's implication that tattoos are an embellishment characteristic of unskilled multiple urban offenders was also tested.<sup>1</sup> Examination of the bushrangers' indents revealed that upon embarkation the most heavily tattooed group were not city dwellers, but rural workers, 35 per cent, followed by labourers and other unskilled urban occupations, 34 per cent, and skilled urban, 31 per cent. Thus, at least in terms of this study, we can say that this information does not appear to be a good indicator of socio-economic background. Although some convicts in the data set were heavily tattooed little of interest was discernible. One possible exception was William Stewart, a cotton spinner. This man bore the coat of arms of his native city on his right arm, "A Tree, Fish, Bell & Bird, Sun Moon & Stars L{e}L Gl{asgo}w. Fl{ouris}h."<sup>2</sup>

**Bushrangers as criminals:** Table 2.4 compares the offences that bushrangers were transported for with Robson's data. On first inspection the comparison with column B (sample of all convicts) appears to confirm the popular belief that the bushrangers were composed of the worst element of a rather uninspiring criminal population. For, while the percentage of property offenders is high for convicts, it is noticeably higher for convict bushrangers. Further, those twin scourges of the early Victorian city, the petty larcenist and the burglar, appear to be disproportionately represented amongst the latter. Supporting evidence for this 'worse-than-thesis' is apparently readily available. It can be seen from fig.2.7 that, compared with other convict groups, an extremely large proportion of bushrangers were transported for life. This kind of snap judgement history has characterised convict studies for at least the last thirty years. In particular, the 'crime profiles' of transportees to Van Diemen's Land and Scottish convicts have

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<sup>1</sup> Robson, *The Convict Settlers of Australia*, p.97.

<sup>2</sup> William Stewart, per *Roslyn Castle*, No.986, A.O.T., Con.23 and 18. Note: The coat of arms of Glasgow was one of the emblems of the Association of Cotton Spinners in the 1820s. Stewart's tattoo, however, did not include any of the other emblems of the association - A crown 'Britains Glory' 'Live and let Live' a cotton plant and ship 'Success to the Cotton Tree' 'Success to Commerce' 'Success to the Friendly Association of Cotton SPINNERS' such an identification would thus be tenuous. *Peoples Palace Museum*, Glasgow Green, Union emblem of the Association of Cotton Spinners c.1820.



been unfavourably compared with the established convict norm (that is, sample B in table 2.4).<sup>1</sup> How objective has this comparative history been?

The broader problems associated with extrapolating value judgments from criminal statistics will be dealt with below. For the moment, however, let us critically examine the basis upon which these unfavourable comparisons have been made. Turning again to table 2.4, it can be seen that proportionately, the offences committed by the bushrangers bear the closest resemblance to those committed by convict populations drawn from similar backgrounds, notably C (convicts sent to Van Diemen's Land only) and E (English and Scottish convicts). Conversely, the comparison is at its weakest when the bushrangers offence breakdown is compared with the offences committed by convicts sentenced by Irish courts, (D). As we have already seen, few Van Diemen's Land bushrangers were convicted in Ireland and this is reflected in the composition of their offence returns. The peculiar socio-economic background of early nineteenth century Ireland is strongly reflected in the returns for E. Categories which are inflated include theft of livestock, a crime particularly associated with rural workers, and the 'political' and public disorder offences of riot, assault, murder, destruction of property, treason and various forms of political combination.<sup>2</sup> The categories which are deflated are those commonly associated with city crime, 'other larcenies' and house breaking. As we shall see, it is these 'urban' offences which have been linked with a particularly useless type of transportee. Regardless of other data recorded in the indent, notably occupation, samples of convicts have been evaluated on the basis of the numbers convicted for picking pockets and breaking houses. The absurdity of this is that the proportion of offenders in these categories is largely dependent on the number of Irish convicts in the sample. Less than 8 per cent of the bushrangers were convicted in Ireland compared with 22 per cent of sample B, 15 per cent of sample C, and none in sample D. Rather than demonstrating that the bushrangers were 'worse' than other transportees, we can say that the offence comparison confirms that they were typical of a mainland dominated convict group.

**Sentences:** Not surprisingly, given the variation in national offence patterns described above, there was a marked difference in the proportion of life sentences awarded to mainland and Irish convicts. According to Robson's data, 29 per cent of English

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<sup>1</sup> Robson, *The Convict Settlers of Australia*, p.130; I.Donnachie, 'Scottish Convicts and Transportation to Australia', p.32-35 and J.F.Moore, *The Convicts of Van Diemen's Land (1840-1853)*, (Cat and Fiddle Press, Hobart Tasmania, 1976) pp.41-42.

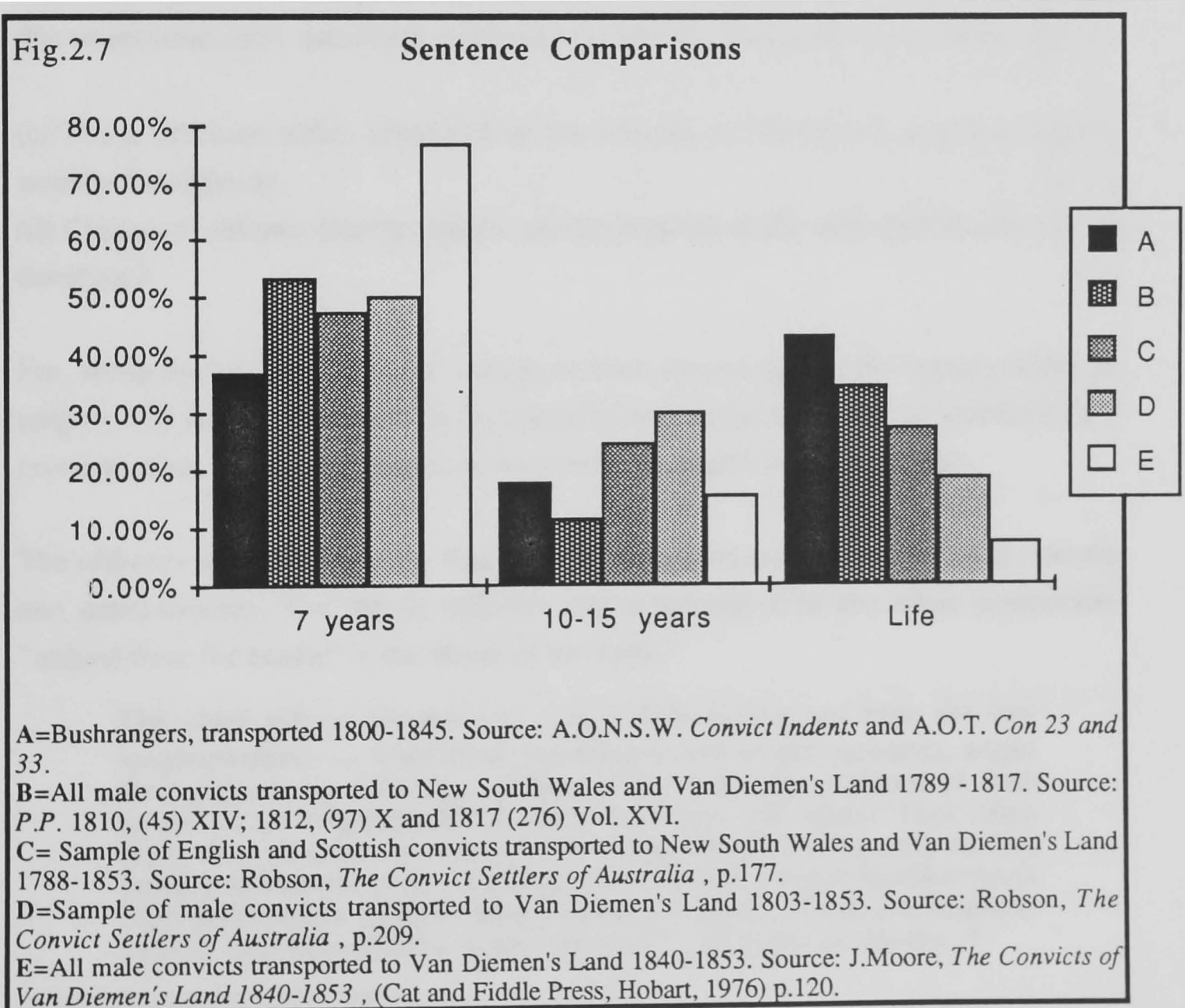
<sup>2</sup> Robson, *The Convict Settlers of Australia*, pp.47 and 56-58 and Nicholas and Shergold, 'Convicts as Migrants', pp.46 - 47.

Table 2.4 Offence Comparisons

	A		B		C		D		E	
<b>Offences against property</b>										
<i>Larceny (other than specified)</i>	99		2117		1814		296		1065	
	40.41%		37.06%		41.44%		24.48%		39.55%	
<i>Burglary, housebreaking</i>	51		907		813		90		447	
	20.82%		15.88%		18.57%		7.44%		16.60%	
<i>Theft of livestock (not poaching)</i>	26		813		525		287		325	
	10.61%		14.23%		11.99%		23.74%		12.07%	
<i>Robbery (so designated)</i>	18		402		280		115		105	
	7.35%		7.04%		6.40%		9.51%		3.90%	
<i>Theft of wearing apparel</i>	23		379		305		74		218	
	9.39%		6.63%		6.97%		6.12%		8.10%	
<i>Other</i>	5		347		278		67		171	
	2.04%	90.61%	6.07%	86.91%	6.35%	91.73%	5.54%	76.84%	6.35%	86.57%
<b>Offences of a public nature</b>										
<i>Coining; uttering</i>	4		121		98		23		43	
	1.63%		2.12%		2.24%		1.90%		1.60%	
<i>Other</i>	1		124		39		80		44	
	0.41%	2.04%	2.17%	4.29%	0.89%	3.13%	6.62%	8.52%	1.63%	3.23%
<b>Offences against the person</b>										
<i>Murder; manslaughter</i>	0		81		29		49		33	
	0.00%		1.42%		0.66%		4.05%		1.23%	
<i>Assault (other than specified)</i>	4		80		33		46		38	
	1.63%		1.40%		0.75%		3.80%		1.41%	
<i>Other</i>	0		37		18		18		10	
	0.00%	1.63%	0.65%	3.47%	0.41%	1.83%	1.49%	9.35%	0.37%	3.01%
<b>Military offences</b>										
<i>Breach of the articles of war</i>	11		155		38		23		85	
	4.49%		2.71%		0.87%		1.90%		3.16%	
<i>Other offences</i>	3		150		107		41		109	
	1.22%		2.63%		2.44%		3.39%		4.05%	
<b>Total</b>	245		5713		4377		1209		2693	
	100.00%		100.00%		100.00%		100.00%		100.00%	

A=Bushrangers, B=All convicts, C=Convicts transported to Van Diemen's Land only, D=Convicts convicted in Ireland, E=Convicts convicted in England, Scotland and Wales. (All samples are male only). Sources for A: *A.O.N.S.W.*, *Convict Indents*, *A.O.T. Con 31 and 33* and *P.R.O. HO/26 & 27*. Source for B-E: L.L. Robson, *Convict Settlers*, pp.179,195 and 210

convicts were transported for life compared to 24 per cent of the Irish.<sup>1</sup> While this explains some of the apparent distortion in the distribution of sentences awarded to bushrangers there are obviously other factors at work. In the absence of published inter-temporal data returns, fig.2.7 has been constructed to give an indication of how sentencing policy changed over time. Sentence returns for four convict groups transported over different date spans have been assembled in chronological sequence. While the proportion of convicts sentenced to seven and 10-15 years transportation fluctuated over time, there appears to have been marked decline in the number of convicts transported for life. The bushrangers, a disproportionate number of whom were convicted in the three decades from 1800-1830, reflect the comparatively harsh sentencing typical of English and Scottish courts in this earlier period of transportation.



<sup>1</sup> Robson, *The Convict Settlers of Australia*, p.189

**'Professional' crime:** In the context of the nineteenth century literature, heavily drawn upon by Robson and Tobias *et al*, these statistical breakdowns are rather meaningless. Georgian and Victorian commentators were obsessed not with national criminal trends and crime patterns, but with crime in specific localities. It was the large cities which absorbed their attentions. They held that the urban environment was responsible for the dislocation of the paternal and moral structures which acted as a restraint on rural criminal activities. Commentators and police alike "stigmatised" inner city areas occupied by working people as criminal districts.<sup>1</sup> These, the notorious nineteenth century rookeries, frightened outside observers who felt that they had no control over the activities of large concentrations of urban poor. The high levels of theft which were typical of such districts were taken as proof of the existence of a 'class' who chose crime as their means of support, rather than work. Though all 'crime' including vagrancy and prostitution engendered alarm, there were two types of offence that were particularly associated with a slum-based criminal underworld. These were,

- (i) Those offences which impinged on the security of the person in public places; notably the highway.
- (ii) Crimes of violence directed against private property or the individual resident in his dwelling.<sup>2</sup>

For, while the 'undeserving poor' may have been viewed as morally reprehensible, an underworld was only thought to be cohesive and dangerous, that is, constituting a criminal class, when it was perceived to threaten the rights of other citizens.

The offences which fall into the first of these categories were larceny from the person and street robbery. The typical offender was conceived to be the urban pickpocket, "trained from the cradle" in the 'skills' of his trade.<sup>3</sup>

The chief source whence our pickpockets spring are from the low lodging-houses — from those dwellings in low neighbourhoods, where their parents are thieves..... Many of them are the children of Irish parents, costermongers, bricklayers' labourers and others. They often begin to steal at six or seven years of age, sometimes as early as five years, and commit petty sneaking thefts, as well as pick handkerchiefs from gentleman's pockets. Many of these ragged urchins are taught to steal by their companions, others are taught by trainers of thieves...<sup>4</sup>

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<sup>1</sup> C.Emsley, *Crime and Society in England 1750-1900*, (Longman, London, 1987) p.91.

<sup>2</sup> Philips, *Crime and Authority in Victorian Britain*, pp.207 and 231; Donnachie, 'The Convicts of 1830', pp.40-42 and "'Utterly Irreclaimable": Scottish Convict Women and Australia, 1787-1852', *The Journal of Regional and Local Studies*, Vol.8, No.2 (1988) pp.3-4.

<sup>3</sup> Shaw, *Convicts and the Colonies*, p.165.

<sup>4</sup> P.Quennell (Ed.) *Mayhew's London Underworld*, (Century Hutchinson, Victoria, 1987) p.188.

Examples of criminals which appear to fit this description can readily be found amongst transportees, and the bushrangers are no exception. For instance, Nathaniel Harding's was arrested at Greenwich fair where he was caught stealing a handkerchief. His gaol report records that he was "supposed to belong to the Gangs who plague such places."<sup>1</sup> An attempt to assess this type of criminal activity must address two important questions. How prevalent was this sort of offender and how professional was his or her approach to criminal undertakings?

The specifics of this work necessarily limit such enquires to a relatively small number of cases. Examination of the data relating to bushrangers, however, reveals that 19 per cent of those transported for crimes classified in Robson's *other larcenies* category were convicted for stealing from the person. If we add to these all bushrangers transported for robbery the total comprises 15 per cent of all offenders in the data set. If this 'sub-group' was composed of the kind professional street thieves outlined by Mayhew they would constitute an important and distinct category of offender within the ranks of the bushrangers. The occupational data, however, conflicts with such a simplistic classification. Examples of skills not consistent with the popular view of the street criminal are:

Nathaniel Harding, cited above who claimed to be a skilled worker, a shoemaker.

John Roach a whipmaker and native of London tried at Middlesex assizes for picking pockets and recorded as able to both read and write.<sup>2</sup>

Richard Grover of St Anne's Soho, tried for robbing Sophia Price of a cloak on the King's highway, recorded as a butcher.<sup>3</sup>

William Moore, who confessed his offence "Highway Robbery & Stealing Bacon and Sugar" listed in the indent as a brush handle turner from Reading.<sup>4</sup>

John Clarke, convicted in Staffordshire for "stealing two penny pieces from a woman's pocket", a farm labourer.<sup>5</sup>

Urban unskilled workers are not over represented amongst this 'sub-category' of bushrangers. If we examine the other supposed 'hall marks' of the street criminal our list of 'typical' offenders is further reduced. For, out of all the bushrangers with

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<sup>1</sup> Nathaniel Harding, per *Isabella*, No.1649, *Hobart Town Gazette*, 22 December 1843 and *A.O.T.*, Con. 31.

<sup>2</sup> John Roach, per *Mangles* and *Sir John Byng*, No.1969, *A.O.N.S.W.*, Convict Indents.

<sup>3</sup> Richard Grover, per *Calcutta*, *P.R.O.*, HO/26/8 and M.Tipping *Convicts Unbound*, (Ringwood, Victoria 1988) p.278.

<sup>4</sup> William Moore, per *Lord Petre*, No.10745, *A.O.T.*, Con.33.

<sup>5</sup> John Clarke, per *Triton*, No.7976, *A.O.T.*, Con 33.

recorded previous offences it is only possible to identify four unskilled workers tried in London for larceny from the person. We can conclude that amongst the bushrangers street offenders were common but not prevalent. More importantly we can say that there is little to distinguish these men from the other convicts in the data set. There are no grounds for stating that a 'class' of professional street thief is easily identifiable among these transportees.

Much the same can be said for the second category of offender. The men concerned, the burglars and house breakers, were predominantly skilled workers and were convicted in a wide range of localities. Far from hauls of "plate Jewellery cash, and other valuables" the items most commonly taken were cloth and wearing apparel.<sup>1</sup> The quantity and quality of goods removed was small enough to suggest that this type of criminal activity was used to supplement wages rather than as the sole means of support and this is a conclusion supported by the occupational data.<sup>2</sup> Further, although this offence was perceived as being characteristically urban, several bushrangers were transported for breaking premises in rural areas. They include John Smith, a ploughman, who broke a house at Swallowfields, Wiltshire, and had previously served two months for poaching and Robert McLeod, a gardener, who broke into the shop of Margaret Falconer, merchant of Garmouth, Invernesshire.<sup>3</sup> On the whole we can agree with Philips that, despite some authors assertions to the contrary, the fictional character, Bill Sykes, is as unrepresentative of transported burglars as the Artful Dodger is of nineteenth century street criminals.<sup>4</sup>

**Work related crime:** The stealing of trade specific goods or tools, or stealing from the work place or employer accounted for 12 per cent of all thefts committed by bushrangers. Examples of such offences included: a rope stolen from the Tees Navigation company by George Fawcett, a sailor; nets stolen by William Armitage, a fisherman and fowls by Richard Oldrey, a farmer.<sup>5</sup> It should be noted that although the indent frequently described what was stolen, watches, handkerchiefs, geese etc., they only rarely specified the location of the crime and or the relationship of the transportee to the victim. This estimate of work related crime is therefore lower bound.

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<sup>1</sup> Quennell (Ed.) *Mayhew's London Underworld*, p.258.

<sup>2</sup> Philips, *Crime and Authority in Victorian Britain*, p.241.

<sup>3</sup> John Smith, per *Mangles*, No.2045, A.O.T., Con.31 and Robert McLeod, per *Princess Charlotte*, No.326, A.O.T., Con.31 and S.R.O., AD14/24/121.

<sup>4</sup> Philips, *Crime and Authority in Victorian Britain*, p.242 see also Robson, *The Convict Settlers of Australia*, pp.39 & 150 and J.J.Tobias, *Crime and Police in England*, pp.61 and 67.

<sup>5</sup> George Fawcett, per *Susan* (NSW) and *Lady Franklin* (VDL), No.13044, A.O.T., Con.23 and 31; William Armitage, per *Persian* (2), No.404, A.O.T., Con.23 and 31 and Richard Oldrey per *Dromedary*, No.19, A.O.T., Con 23 and 31.

Some industries were particularly prone to work related theft. Transport workers, heavily represented amongst bushrangers, are a case in point. Seamen, watermen, bargemen and carters all had access to goods in transit and some undoubtedly took advantage of their employment situation to 'knock off' cargo.<sup>1</sup> The bushranger Joseph Fernandez is a good example of this type of offender. Fernandez, a sailor, was charged with stealing 100lbs of gum from the schooner *Bilboa* anchored in the Thames. He was described as a native of Portugal and a member of the ships crew.<sup>2</sup>

Many of the 'inside jobs' described by Rudé are similar to this sort of offence. These were typically performed by servants and other live-in employees who gained access to a house, warehouse or shop and its contents through employment "before choosing a favourable moment for removing sheets, clothing and furniture to deposit at the pawn brokers down the street."<sup>3</sup> Many of the offences classified by Robson as 'theft of wearing apparel' certainly fall into this category.

Other bushrangers were transported for stealing articles which facilitated the practice of legitimate trades. The most notable example of this type of offender was Hector MacDonald, a fisherman from Greenock. MacDonald robbed a carpenter's shed at Inverary of a fishing boat. He used this craft to ply his trade in the Firth of Clyde and was only apprehended when bad weather forced him to take refuge back in Inverary harbour where the vessel was recognised.<sup>4</sup>

The example of Henry McConnell, a cotton spinner from Paisley, shows that work related crime was not limited to offences against property. While McConnell's indent simply reads transported for "shooting with intent to murder", precognitions relating to the case are more specific. His intended victim, it transpires, was a former employer, John Orr managing partner of a cotton mill. McConnell, who had participated in a strike at the mill four months previous to the offence, attempted to gun down Orr in the doorway of a house. John O'Donnell, the owner of the bar in which the offence was planned, stated that he understood "the purpose of shooting him (Orr) had reference to the 'turn out' among the cotton spinners in his (Orr's) employ."<sup>5</sup>

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<sup>1</sup> C.Emsley, *Crime and Society in England*, pp.113 and 117.

<sup>2</sup> Joseph Fernandez, per *Calcutta*, P.R.O., HO/26/8 and *Tipping Convicts Unbound*, p.273.

<sup>3</sup> Rudé, *Criminal and Victim*, p.33 and Donnachie, "Utterly Irreclaimable", p.3.

<sup>4</sup> Hector MacDonald, per *Lady Castlereagh*, No.61, A.O.T., Con.23 and S.R.O., AD14/16/67 and AD//17/45.

<sup>5</sup> Henry McConnell, per *Lord Hungerford*, No.434, A.O.T., Con.23 and 31 and S.R.O., AD14/21/64.

Many of the soldiers and sailors in the data set were also sent to Van Diemen's Land as a result of convictions which sprung from work related charges. In common with Henry McConnell these men were atypical, in that the 'crimes' they committed were not against property. In total, eleven bushrangers were court-martialled for breach of the articles of war. All but two of these were for desertion. While breach of contract by an apprentice was summarily dealt with, desertion from the armed forces was severely punished. In essence, however, it is only this severity which distinguishes the two offences. The indent of John Donovan, a soldier court-martialled in Upper Canada, for example, reads "branded D left side".<sup>1</sup> In another case, Hugh Burn and Richard McGwyre two sailors, were sentenced to death for 'deserting to the enemy', although the plea, being so "much in liquor (we) did not properly know what we were about..", gained them a respite and they were instead transported for life.<sup>2</sup> There is also a sense in which the two bushrangers transported for the "detestable and unnatural crime mentioned in the 21<sup>st</sup>. article of war" can also be viewed as work related offenders. For, although civil courts took an equally dim view of unnatural acts, their 'crime' was not to break the law of the land, but the disciplinary code of their employer, the Royal Navy.<sup>3</sup>

Indents which detailed former offences provided confirmation that work related crime was wide spread. Thus, John Werry, who claimed to be a waterman, and John Thompson, a seaman, both had previous convictions for smuggling. William Wickens, a ploughman, had previously been tried for sheep stealing and two young skilled workers, John Liddle, a watch maker, and John Gibson, a whitesmith, had both served short terms for leaving their apprenticeships.<sup>4</sup>

It is not argued here that the bushrangers were innocent, for the evidence strongly implies that they were not. Only one statement of innocence, and this only partial, was in fact recorded in the indents. This was John Liddle, a watch maker, who stated that he had been tried for house breaking "and stealing one pair of silver and one pair of tortoise shell spectacles". He declared, however, that he had only received the goods.<sup>5</sup>

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<sup>1</sup> John Donovan, per *Lady Lyndoch*, No.955, A.O.T., Con.33.

<sup>2</sup> Hugh Burn and Richard McGwyre both per *Guildford* (1), P.R.O. Adm.1/5405.

<sup>3</sup> James Parker and Matthew Keegan both per *Indefatigable* (1), P.R.O. Adm.1/5418 and 1/5410. See also N.A.M.Rodger *The Wooden World: An Anatomy of the Georgian Navy*, (Collins, London, 1986) pp.218-227 and A.N.Gilbert, 'Buggery and the British Navy 1700-1861' *Journal of Social History*, 10, No.1 (1976) pp.77-98.

<sup>4</sup> John Werry, per *Morley*, No.461, A.O.T., Con.23 and 31; John Thompson, per *Claudine*, No.171, A.O.T., Con.23 and 31; John Gibson, per *Chapman*, No.391, A.O.T., Con.23 and 31 and John Liddle, per *William Miles*, No.40, all A.O.T., Con.23 and 31.

<sup>5</sup> John Liddle, per *William Miles*, No.407 A.O.T., Con.31.



Nor is it intended to imply that the bushrangers were largely victims of a harsh penal code. For, although some offences could perhaps be regarded as trivial by the standards of today, many could not. Ten per cent of former convictions, for example, were for breaking-and-entering. We should also add that a minority were clearly persistent thieves. One confession reads "Once 12 Mo<sup>s</sup> in Gaol and twice flogged I have been convicted and in Gaol so many times I cannot recollect".<sup>1</sup> This analysis does not seek to plead mitigating circumstances, instead it offers a re-evaluation of the Robson/Shaw analysis of transportation which is consistent with the more recent literature. It is argued that the offences that the bushrangers were transported for were largely 'casual' in the sense that the relationship of the offender to the criminal activity undertaken was not professional but 'part time'. Theft was used to supplement wage labour not replace it. Trial records reveal that even when out of work some bushrangers resorted to crime not simply for support but to gain access to the market in a manner consistent with their skills. Thus John Wilson, an unemployed weaver from Paisley, broke into a shop in order to steal cloth from a loom and Hector MacDonald, cited above, committed his offence to end a spell on the parish in the towns of Renfrewshire.<sup>2</sup> The bushrangers were not professional criminals because they did not produce "crime, as hatters produce hats, or miners coal."<sup>3</sup> Instead, we can say that they *were* miners and hatters, at least in the sense that the majority had practised the skills they claimed expertise in, even if they were not employed in the relevant trades at the time of their arrest. In short, they were, as the high levels of work related crime reveal, 'convict workers'.

To summarise, on the basis of the criteria adopted by Nicholas and Shergold this study has built up a profile of transported bushrangers which compares favourably with general assessments of the convict population.<sup>4</sup> The individual components from which this profile has been compiled are as follows. **Skill:** The bushrangers possessed skill levels comparable to those of the English and Scottish early nineteenth century working population. On the basis of this evidence the thesis that they were drawn from a *residuum* of nineteenth century *undeserving poor* is rejected. **Age:** Upon arrival in Australia the bushrangers were predominantly in their most productive years. Their age profile compares favourably with equivalent data for male English convicts transported to New South Wales. In particular, the disproportionate clustering of bushrangers in

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<sup>1</sup> John Rogerson, per *Katherine Stewart Forbes*, No.608, *Hobart Town Gazette*, 20 April 1838 and *A.O.T.*, Con.31.

<sup>2</sup> John Wilson, per *Caledonia*, No. 242, *A.O.T.*, Con.23 and 31 and *S.R.O.*, AD14/19/56.

<sup>3</sup> Hughes, *The Fatal Shore*, p.165.

<sup>4</sup> Clark, 'The origins of the Convicts'; Robson, *The Convict Settlers of Australia*; Shaw, *Convicts and the Colonies*; Hughes, *The Fatal Shore* and S.Nicholas (Ed.), *Convict Workers*.

the 16-20 age category suggests that where the skills they brought to Australia did not match the needs of the colonial economy there was much scope for efficient job restructuring. We should also note that comparatively few bushrangers were transported in the less productive 'under 15' and 'over 36' age categories, (see fig.2.6). **Sex:** The bushrangers were exclusively male. Thus, if convicts as a whole possessed an age, sex, skill distribution which compared favourably with free immigrant flows to Australia this was particularly true of bushrangers.<sup>1</sup> **Health:** Their height by age profile closely resembles that of male transportees to New South Wales, (see fig.2.5). This study endorses Nicholas and Shergolds' conclusion that far from being a population of 'runts' the 'nutritional status' of the convicts, including bushrangers, was comparable to that of British workers.<sup>2</sup> In addition we know that all convicts were medically examined before, during and after the voyage, and that adequate levels of clothing and food were supplied. The comparatively low death rates on transports support the thesis that, compared to other coerced labour flows and early nineteenth century free migrants to the United States, the convicts disembarked in Australia were fit and well maintained.<sup>3</sup> **Dependents:** If convicts left few dependents behind this was particularly true of the bushrangers (see table 2.3), a strong indication that their integration into colonial society was a comparatively efficient and painless process. Further, while the children of convicts sometimes accompanied their parents to Australia, this does not appear to have occurred in any of the cases covered by this study. The bushrangers did not encumber the state with unproductive dependents.

Indeed, it is possible to measure the potential utility of Australia bound convicts on the basis of the criteria employed in the selection of modern day migrants. Many of the jobs listed on the current occupational short list (issued to prospective migrants to Australia) can readily be found in convict indents. Examples include, upholsterer, furniture polisher, cabinet maker, pastry-cook, waiter, chef/cook, plumber and tool and die maker. The labour power of individual convicts can be scored on the basis of this 'points test' by using the information recorded in the indents. If an apprenticeship is taken as the equivalent of a trade certificate, occupational short list convicts would score 75 points on the skill factor alone. Other skilled convicts with training and occupational experience whose trades are not short listed, would score 70. On the age factor most transportees fall into the top two categories, 18 to 24 years (score 25) 25 to 29 years (score 20). On the last factor 'Language Skills', with a few exceptions (for example,

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<sup>1</sup> Nicholas and Shergold, 'Convicts as Migrants', p.60.

<sup>2</sup> Hughes, *The Fatal Shore*, p. 174 and Nicholas and Shergold, 'Convicts as Workers', pp. 78-82.

<sup>3</sup> Nicholas and Shergold, 'Convicts as Migrants', pp.47-48 and Donnachie, "'Utterly Irreclaimable'", pp.7-8.

Gaelic monoglots) convicts either score 15 'proficient in English (able to speak, read and write English well)' or 10 'reasonably proficient in English but some training required'. Total points for skilled convicts under 29 years of age and with training and work experience would thus fall between 100 and 115. The current pool entry mark for prospective migrants is 95 points.<sup>1</sup>

Yet, if the convicts as a whole can be compared favourably with other migrant flows to Australia, this applies particularly to the bushrangers.<sup>2</sup> On this basis we can question the popular notion that the high levels of bushranging associated with the transportation era are correlated with the poor quality of Australia's convict immigrants. Of course, the potential benefits of convict labour could only be realised if (a) these considerable human resources were efficiently employed and (b) transportees co-operated with a system which compulsively extracted labour from labour power. The colonial record of the bushrangers suggests that one or both of these conditions was not met. Nearly 40 per cent of the convicts covered by this study were publicly executed. A further 7 per cent were shot while illegally at large and the vast majority of the rest spent long unproductive years labouring in the penal settlements of Newcastle, Macquarie Harbour, Port Arthur and Norfolk Island.

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<sup>1</sup> Department of Immigration, Local Government and Ethnic Affairs, *Migrating to Australia: The 'Points Test' for Migrants*, (Australia 1989).

<sup>2</sup> As Steve Nicholas has demonstrated the value of each convicts labour power can be calculated. The variable components in this calculation are; length of sentence (i.e the longer the sentence the greater the potential value of the convict's labour power to the state), skill, sex, age and health. On all of these criteria the bushrangers score at least as well as English male convicts. Nicholas, 'The Convict Labour Market', in S.Nicholas (Ed.), *Convict Workers*, pp. 113-114 especially note 23.

## Chapter 3

### **Time on the Southern Cross: The Economics of Transportation.<sup>1</sup>**

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<sup>1</sup> With apologies to R.W.Fogel and S.L.Engerman, authors of *Time on the Cross: The Economics of American Negro Slavery*, (Wildwood House, London, 1974)

Nicholas and Shergold see transportation as Australia's first immigration policy. A policy which brought labour power to the antipodes of a quality comparable, if not superior, to that supplied by later waves of free migrants.<sup>1</sup> They claim that what distinguished the convicts from their fellow travellers was the conditions under which they arrived, not the means by which that arrival was effected. Other migrants were free agents in so far as they owned their own labour power. If they chose, they could surrender the right to gain an income from their labour by entering an employment contract. The convicts who arrived in Australia did not have the freedom to dispose of their labour power as they saw fit. An employment contract had already been involuntarily imposed upon them by a civil or military court. Through the operation of the law, the crown had obtained property rights over their bodies for the duration of their sentence.<sup>2</sup>

This chapter will examine how these human resources were utilised by the convict administration and the means by which the process of labour extraction was squared with the penal objectives of a transportation system. This analysis will begin with an account of the development of a British transportation policy from the early seventeenth century to the establishment of the convict settlement at Port Jackson in 1788. It will be argued that the foundation of the Australian convict system was not a haphazard and ill-conceive response to the temporary pressures of prison over-crowding, but was planned on the basis of 150 years of experience in the management and disposal of property rights in convicted subjects. Based on this understanding of the mechanics of British policy, the chapter will proceed to examine three areas of the operation of the convict system in Van Diemen's Land: the structuring of the convict labour market; the matching of convict skills to job openings and the techniques employed to extract labour from labour power. This analysis will pay special attention to Stephen Nicholas' re-interpretation of the operation of the convict system in New South Wales.

## I

### **The Evolution of Transportation, 1615-1788.**

It is now generally agreed that transportation was originally conceived as an intermediate penalty to fill the gap between the extremes of execution and such lesser

punishments as thumb branding.<sup>3</sup> While not the only legal mechanism employed to reduce the frequency of public executions,<sup>4</sup> it is clear that at least after 1660 it was a punishment increasingly resorted to for this express purpose. As such it fulfilled a role comparable to that of the French galley service and the Hapsburg and Prussian convict construction gangs.<sup>5</sup> In fact, the parallel between these different forms of punishment is strong, for, while on the one hand they all served to broaden the range of options open to the sentencing authorities, they also possessed an economic rationale in their own right as mechanisms for extracting labour from convicted felons.

In the manner that this was achieved, however, the English (later British) system departed from the conventional continental model. This is not to say that the deployment of felons out-with the immediate boundaries of the realm was without precedent. During the fifteenth and sixteenth centuries the French, Spanish and Portuguese had all experimented with convict labour in the exploration and settlement of the Americas.<sup>6</sup> Rather, it was the manner in which transportation was conducted as a private trade in labour that distinguished the English system. Property rights over the first batch of convicts (pardoned on condition of transportation between 1615 and 1619) were transferred to the East India Company.<sup>7</sup> From this point on the flow of convict labour was integrated with the privately controlled trade in indentured servants to the Caribbean and the American colonies.

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<sup>1</sup> S.Nicholas and P.Shergold, 'Convicts as Migrants', in S.Nicholas (ed.) *Convict Workers: Reinterpreting Australia's Past*, (Cambridge University Press, Sydney, 1988) pp.59-60.

<sup>2</sup> Nicholas, 'The Convict Labour Market' in S.Nicholas (ed.) *Convict Workers*, pp.113-114.

<sup>3</sup> J.M.Beattie, *Crime and the Courts in England 1660-1800*, (Clarendon Press, Oxford, 1986) p.470-478 and A.E.Smith, 'The Transportation of Convicts to the American Colonies in the Seventeenth Century', *American Historical Review*, Vol.39, No.2 (1934) p.233.

<sup>4</sup> Another device that courts used to reduce the rate of judicial carnage was to selectively ignore the reading requirement for those crimes where benefit of clergy was applicable. The major disadvantage with this loop hole was that it did not provide the much sought after intermediate punishment, "burning in the hand" and release was the statutory requirement for those found guilty under these terms. After the Restoration an attempt was made to rectify this state of affairs by making benefit of clergy subject to transportation for some offences. Beattie, *Crime and the Courts*, pp.88-89, 141-146 and 474-477 and R.Ekirch, *Bound for America: The Transportation of British Convicts to the Colonies 1718-1775*, (Clarendon Press, Oxford, 1987) p.15-16.

<sup>5</sup> J.H.Langbein, *Torture and the Law of Proof: Europe and England in the Ancien Regime*, (The University of Chicago Press, Chicago, 1977) pp.40-41 John Langbein has in fact argued that the origins of transportation can be traced to an abortive Elizabethan attempt to construct a galley fleet manned by capital respites.

<sup>6</sup> Smith, 'The Transportation of Convicts to the American Colonies', p.232 and A.G.L.Shaw, *Convicts and the Colonies*, (Faber and Faber, London, 1966) p.22.

<sup>7</sup> Smith, 'The Transportation of Convicts to the American Colonies', p.234-236.

The difficulties of attracting free labour to colonial plantations in the early seventeenth century partially explains the peculiar development of transportation.<sup>1</sup> Other factors are more complex, but it would appear that the construct of this system was intended to allay fears that an intermediate sentence of detention and hard labour would impinge on "traditional English freedoms". For, although the legal function of transportation was to provide a new tier of punishment on the continental penal gang model, the subterfuge of the private indentured trade was employed to obscure the relationship between the state and punishment by hard labour. By this means, the charge that the chains of state tyranny were encroaching on the liberties of English subjects was avoided.<sup>2</sup> Thus, from its birth, transportation had a dual remit. The convict's labour potential over the period of his or her sentence had an economic value. By assigning this commodity to a shipping merchant, the latter could offset the cost of removing their charges across the Atlantic against the enhanced value of human capital in the buoyant labour markets of the American colonies. The advantages of this arrangement for the state were clear. It allowed an enormous expansion in the sentencing capacity of the judicial system at a low *per capita* cost, as the convict, quite literally, paid for his or her punishment. That punishment was to labour in the plantations of the colonies for a period nominally fixed by the length of sentence imposed by the court. Thus, the second advantage which accrued from transportation was that it stimulated colonial growth.

Despite the many attractions of this new departure in penal policy, the flow of convicts to the colonies remained erratic throughout the course of the seventeenth century. The success or failure of this system of transportation was largely dependent on the fortunes of the private trade in indentured labour. While the colonial market was subject to many factors, the informal relationship between private enterprise and public policy did not always suit the interests of both parties. The demand for colonial labour tended to be strong at times when the supply was weak, a problem especially manifest during periods of international conflict.<sup>3</sup> Before 1717, felons were not sentenced to transportation *per se* but pardoned on condition of their removal to the colonies. The

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<sup>1</sup> For the demand for indentured colonial labour see D.W.Galenson, 'The Rise and Fall of Indentured Servitude in the Americas: An Economic Analysis', *The Journal of Economic History*, Vol.XLIV, No.1 (1984) pp.2-6 and S.V.Salinger, "*To Serve well and Faithfully*" *Labour and Indentured Servants in Pennsylvania, 1882-1800*, (Cambridge University Press, Cambridge, 1987) pp.5-6.

<sup>2</sup> Ekirch, *Bound for America*, p.3.

<sup>3</sup> As both Hay and Beattie have demonstrated, urban conviction rates display a tendency to fall when the state was at war. At the same time, however, the vulnerability of the colonies, especially in the Caribbean, to French and Spanish invasion promoted demands for increased labour migration in order to enlarge the pool of manpower available to counter the threat. J.M.Beattie, 'The Pattern of Crime in England 1660-1800', *Past and Present*, Vol.62 (1974) pp.47-95 and D.Hay, 'War, Dearth and Theft in the Eighteenth Century: The Record of the English Courts', *Past and Present*, No.95 (1982) pp.117-160.

term of removal was usually fixed at seven years. There seems to have been much confusion, however, as to what term felons should remain indentured to their purchasers. There was thus, some ambiguity over what exactly was being purchased.<sup>1</sup> A related problem was that the market value of indentured servants was subject to wide variations depending on the age, sex, skill and health of the commodity.<sup>2</sup> Thus, the profit expectations of the shipping merchant were correlated with the quality of the convicts they managed to obtain. Since there was no contractual obligation on their part to take all convicts, merchants appear to have selectively chosen their cargoes. Thus, transportation remained an ineffectual sanction in the case of certain categories of offender, notably women, the aged and the infirm.<sup>3</sup>

The increase in the urban crime rate which accompanied the cessation of the War of the Spanish Succession prompted a thorough government overhaul of the moribund mechanisms of transportation.<sup>4</sup> While fluctuations in the colonial demand for convict labour remained a problem throughout the eighteenth century, the Transportation Act of 1718 ironed out many of the structural obstacles which had hindered the development of the trade in the past one hundred years. Transportation was enacted as a punishment in its own right and a proper sentencing structure was introduced: seven years for a non-capital offence and fourteen for felons reprieved from the gallows. The resources of central government were used to give the sanction of transportation real teeth. Contracts for the shipment of convicts to the Americas were awarded to merchants who were required to post a bond which was reclaimable on production of a certificate of disembarkation.<sup>5</sup> A condition of the contract was that all convicts sentenced to transportation in the specified catchment area were to be shipped within an agreed time scale. As a sweetener the Treasury paid a fee to the contractor for each transportee embarked. This was initially set at £3 a head and subsidized out of a county rate for those convicts sentenced by the provincial assize circuits.<sup>6</sup>

After the regulation of 1718 transportation became a major instrument of penal policy fulfilling a role comparable to that of the prison post-1850. While retaining its original rationale as a *modus operandi* for the selective use of the death penalty, its remit was expanded to cover non-capital offences. Further, it was a device that was socially

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<sup>1</sup> Smith, 'The Transportation of Convicts to the American Colonies', p.249.

<sup>2</sup> Salinger, *"To Serve well and Faithfully"*, p.97.

<sup>3</sup> Beattie, *Crime and the Courts*, p.479.

<sup>4</sup> Beattie, *Crime and the Courts*, p.502.

<sup>5</sup> K.Morgan, 'The Organisation of the Convict Trade to Maryland', *William and Mary Quarterly*, 3rd Ser., Vol.17 (1985) p.201.

<sup>6</sup> Beattie, *Crime and the Courts*, p.504.



acceptable, in so far as it removed large numbers of offenders from the community without incurring the heavy costs of imprisonment. To insure the success of these objectives, however, the state had been forced to interfere with the supply side of the convict trade. The experience of the previous century had shown that the market in indentured labour was the vehicle upon which all realistic hopes of establishing an acceptable intermediate punishment rested. While the Act of 1718 succeeded in regulating the relationship between private interest and public policy, it did so at a price. The British Government now effectively subsidised a trade in its own property, a state of affairs which was not wholly desirable.

Through the course of the century some 50,000 convicts were sold into servitude in the Americas, chiefly in the colonies of Virginia and Maryland.<sup>1</sup> While an increase in demand for convict labour in the 1770s allowed the reduction and eventual abolition of the Treasury subsidy,<sup>2</sup> it is apparent that concealed within this trade was a significant income transfer from the state to shippers, and ultimately to colonial employers, only a proportion of which was recouped in taxes. Thus, while the home use of convict labour remained unpopular, the temptation to explore the possible advantages of this policy remained, especially when the state was at war.<sup>3</sup> Warfare brought a combination of falling conviction rates, a reduced free labour supply and an increase in demand for manpower on defence related projects. As far as the actual physical removal of convicts was concerned these factors were augmented by the increase in risk that privateering brought to trans-Atlantic shipping movements. Such changes in circumstance all argued in favour of a rethink in the manner in which property rights in convicted subjects were disposed of. During both the War of the Spanish Succession and the Seven Years War this change in emphasis was accommodated by circumventing transportation (in its then established form) as the only form of intermediate punishment. While amendments to the legal structure of transportation were avoided, fewer convicts were sentenced to transportation, instead fit, male, capitally convicted felons were reprieved on condition of service in the army, the navy and the royal dockyards.<sup>4</sup> Thus from the mid-

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<sup>1</sup> A.R.Ekirch, 'Bound for America: A Profile of British Convicts Transported to the Colonies, 1718-1775', *William and Mary Quarterly*, 3rd. ser., Vol.42 (1985) p.188. Average prices in the period 1767 to 1775 ranged from £10-14 for male convicts and £5-9 for female. Morgan, 'The Organisation of the Convict Trade', pp.220-221.

<sup>2</sup> Shaw, *Convicts and the Colonies*, p.34.

<sup>3</sup> R. Hughes *The Fatal Shore*, (Pan books, London 1988) pp.41-42.

<sup>4</sup> Shaw, *Convicts and the Colonies*, p.34. It is interesting to note that by the late eighteenth century the British Government was beginning to express concern that the indentured servant trade to the Americas was also draining the "Kingdom of many useful and labourous inhabitants." Salinger, *To Serve well and Faithfully*, p.145.

eighteenth century onwards it is apparent that the state was experimenting with the public sector deployment of convict labour.

In the event the issue was forced by the American colonists refusal to accept further supplies of convicted labour. This story has been told many times and in the prevailing account, recently re-asserted by Molly Gillen, the script is simple. The British Government was left without a destination for its would be cargo of "human serpents" and in desperation turned to Botany Bay. This new "dumping ground" in the Southern Hemisphere thus acted as a release valve, off loading the pressures from an intolerably overcrowded and rudimentary prison system.<sup>1</sup> This is an argument, however, which is deeply and fundamentally flawed. In the first place it displays a profound ignorance of the mechanics of transportation, emphasising the penal aspects of British policy to the total exclusion of the economic rationale which delivered those objectives. Secondly, it is a-historical in that transportation to the American colonies is perceived as a unique feature of British colonial relations, not as one strand of a large and complex trans-Atlantic labour movement. Thirdly, it fails to account for the one important change which occurred between the cessation of transportation to the Americas and the arrival of the First Fleet at Port Jackson. A change which in an Australian context is of primary importance.

Thus, while it is true that in the post-1776 period the American colonist rejected fresh imports of convicts, we should note that transportation had never been imposed against the wishes of colonial employers. Indeed, it was the latter's preference for bond over hired labour which had provided the key for the development of a cost effective intermediate penal policy. However, in the late eighteenth century the factors which had argued for the traditional structuring of the American labour market began to shift in favour of two alternative sources of mobilising manpower. First and foremost, rising prices cut the differential between wages and maintenance, thus the advantage of substituting board and lodging for a wage became less pronounced than it had in the past. Secondly, over much of the Eastern Seaboard, a colonial labour shortage was replaced by a labour surplus. In an increasingly competitive job market, the continued importation of indentured servants had a telling effect on free wage rates and urban skilled labour was hit particularly hard by the resultant wages-prices scissors. In the years immediately proceeding the revolution, artisan non-importation movements began to appear in the major seaports. The later made political inroads during the revolution, a

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<sup>1</sup> M.Gillen, 'The Botany Bay Decision, 1786: Convicts not Empire', *English Historical Review*, Vol.XCVII (1982) pp.740-766. for reference to "human serpents" see S.Nicholas and P.Shergold, 'Unshackling the Past in S.Nicholas (ed.), *Convict Workers*, p.7.

process which was not unconnected with a large enrolment of skilled labour in the militia.<sup>1</sup> Amidst a highly charged political background the transportation issue became increasingly linked with questions of patriotic duty and emotive calls were made to ban convict labour as a first stage towards reducing the proportion of indentured servants in the workforce. Thirdly, the falling cost of a trans-Atlantic passage began to undercut the rationale for indenture itself. Increasingly, migrant workers were able to pay for their passage up front and were therefore less inclined to sign away their labour power to cover the costs of shipment. The reduced supply of indentured labour provided further incentives for employers to switch to other forms workforce recruitment. Fourthly, changes in the colonial servants acts reduced the powers masters had previously held over their bonded workers. As the indenture became increasingly unenforceable its popularity as a method extracting labour from labour power declined. Finally, those tasks which still stood to benefit from the utilisation of bonded workers turned to another source where labour services could be purchased not for a limited number of years, but for life. In particular, plantation labour with its emphasis on ganging, economies of scale and relatively low skill inputs was increasingly performed by slaves, in preference to white indentured workers. It is thus apparent that while transportation may have been the immediate victim of these changing circumstances, its demise was accompanied by the general decline, and ultimate cessation, of the whole North European trans-Atlantic movement in indentured labour.<sup>2</sup>

The one element which needs to be retained from the "dumping ground" thesis is that of all the possible alternative transportation termini, Botany Bay was far down the list. One by one the alternative schemes fell by the wayside until Eastern Australia was selected by default. Yet, whatever the reasons for selecting an Australia destination, it is apparent that the policy realignment of 1770s and 80s was much more than geographical. The shippers contracted to carry convicts to Port Jackson were bound by a new set of regulations. These were drawn up by the Navy Board and based on that body's long experience of chartering troop transports. From 1792, contractors were paid a fee for each convict embarked, plus a bonus for each landed in good health.<sup>3</sup> Their responsibility ended, however, when their cargo was discharged in Australia. For, unlike their America bound predecessors, post 1776 convicts remained

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<sup>1</sup> Salinger, *To Serve well and Faithfully*, pp.148-165.

<sup>2</sup> C.Erickson, 'Why did Contract Labour Not Work in the Nineteenth-Century United States', in S.Marks, (ed.) *International Labour Migration: Historical Perspectives*, (Maurice Temple Smith, London, 1984) pp.34-49.

<sup>3</sup> C.Bateson, *The Convict Ships 1787-1868*, (Brown, Son & Fergusson, Glasgow, 1959) pp.12 & 20-21.

"government men" (and women) from the time of their conviction to their release from bondage.

Beyond the extension of government control, the mechanics of transportation remained essentially unchanged. The costs of implementing a penal policy was to be offset through the deployment of the labour services of convicts. Punishment, the final ingredient required to fulfil the objectives of the law, was delivered through the process of labour. To describe this mechanism as an exercise in "dumping" unwanted human refuse is to completely misinterpret its function. The Australian penal colony was founded to put an under-utilised state asset into production, not to shift it from one stagnating prison to another. Further, and this is the importance of the departure from the North American model, it was foreseeable that state controlled transportation would yield net gains. By retaining the services of convicts in public hands those gains would accrue directly to the Crown and not to private individuals. In short, Botany Bay was a state controlled venture in every sense of the term.

The supposition that transportation produced aggregate net benefits is in fact testable and, in a recent work, Frank Lewis has taken up precisely this challenge. His conclusions entirely vindicate the decisions of the British Government. Lewis estimates that in the period 1796-1810 the transportation of convicts to New South Wales was cost effective compared to the alternative penal options (that is, expanded use of hulks and/or a penitentiary construction programme). However, he has also calculated that after 1800, the output of convict and ex-convict workers in Australia was considerably greater than the expenditure incurred through shipping, maintenance and supervision costs.<sup>1</sup>

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<sup>1</sup> I disagree with several of Lewis' assumptions: (i) He excludes public construction from his estimate of the net output of convict labour for he maintains that this formed part of "the cost of running the Australian gaol." How roads, bridges, wharfs, and public buildings can be construed as exclusive penal facilities remains a mystery to me. As we shall see, historically, significant quantities of convict labour were employed in the development of a colonial infrastructure. This should be measured as part of the net output of convict labour in the same manner as private farm formation and house construction.

(ii) In estimating the net output of ex-convicts in Australia and Britain, Lewis assumes that British emancipists would have produced only 20 per cent of the average British wage. He maintains that this is consistent with a recidivism rate of 80 per cent and a zero net output for criminals. I would argue that an output of 20 per cent is certainly an underestimate for the following reasons. (a) Prosecution rates fluctuated, therefore, a recidivist rate can not be measured as a constant. (b) There is little factual basis for the existence of a criminal class in the late eighteenth and early nineteenth century. On the contrary the evidence indicates that a considerable amount of crime was work related and this appears to apply to multiple as well as primary offenders. (c) Examination of prior convictions reveals that a high proportion were for non-property offences or involved the transfer of minimal illegal gains. For example, among the convict bushrangers 11 per cent of specified previous convictions were for assaults or drunken and disorderly behaviour; quitting place of employment or vagrancy accounted for another 12 per cent; poaching or the theft of firewood, "gleanings" and fruit, 11 per cent; miscellaneous

As can be seen from Appendix 1, convicts made up a substantial proportion of the Tasmanian workforce within the period covered by this study.<sup>1</sup> It was the colonial authorities who decided where and how this labour power should be deployed and what it should receive in payment. Lewis' work and Butlin's estimates of early colonial growth performance suggest that the management of the convict labour force was organised along rational lines, yet their work provides little indication of how this was achieved. The subsequent sections of this chapter will make a more detailed assessment of the management of convict workers in Van Diemen's Land.

## II

### Modelling the Colonial Labour Market.

Stan Engerman has outlined two basic categories of benefit which owners of unfree labour can derive from property rights in their fellow human beings. First, there is direct economic exploitation. The substitution of a maintenance for a conventional wage, the former falling far below the worker's marginal revenue product. Secondly, unfree workers can be forced off their desired supply curve generating a greater level of labour participation than could be attained at a "market clearing wage".<sup>2</sup> Based on Engerman's work, Steve Nicholas has modelled the operation of the labour market in New South Wales during the convict era, (see fig.1:6).<sup>3</sup> The mechanics of this model and its application to Van Diemen's Land are discussed below.

When a convict vessel arrived at Hobart or Sydney the colonial government had to decide how this influx of unfree labour should be deployed. In practise a proportion of convicts were withheld to meet the labour requirements of the convict system and the public works, and the remainder were loaned to private individuals subject to demand. For, while the convict settlement at Port Jackson had initially been a public venture, the

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offences such as breaking windows, bastardy and trespass a further 4 per cent. The premise that the cost of recidivist crime outweighed the legitimate earnings of ex-offenders should be viewed with scepticism. F.Lewis, 'The Cost of Convict Transportation from Britain to Australia, 1796-1810', *Economic History Review*, 2nd. ser., Vol. 41, No.4 (1988) pp.507-523. See also N.G.Butlin and W.A. Sinclair, 'Australian Gross Domestic Product 1788-1860', *Australian Economic History Review*, Vol.26, No.2 (1986) pp.128 & 139-142 and S.Nicholas and P.Shergold, 'Convicts as Workers', in S.Nicholas (ed.) *Convict Workers*, pp.62-82.

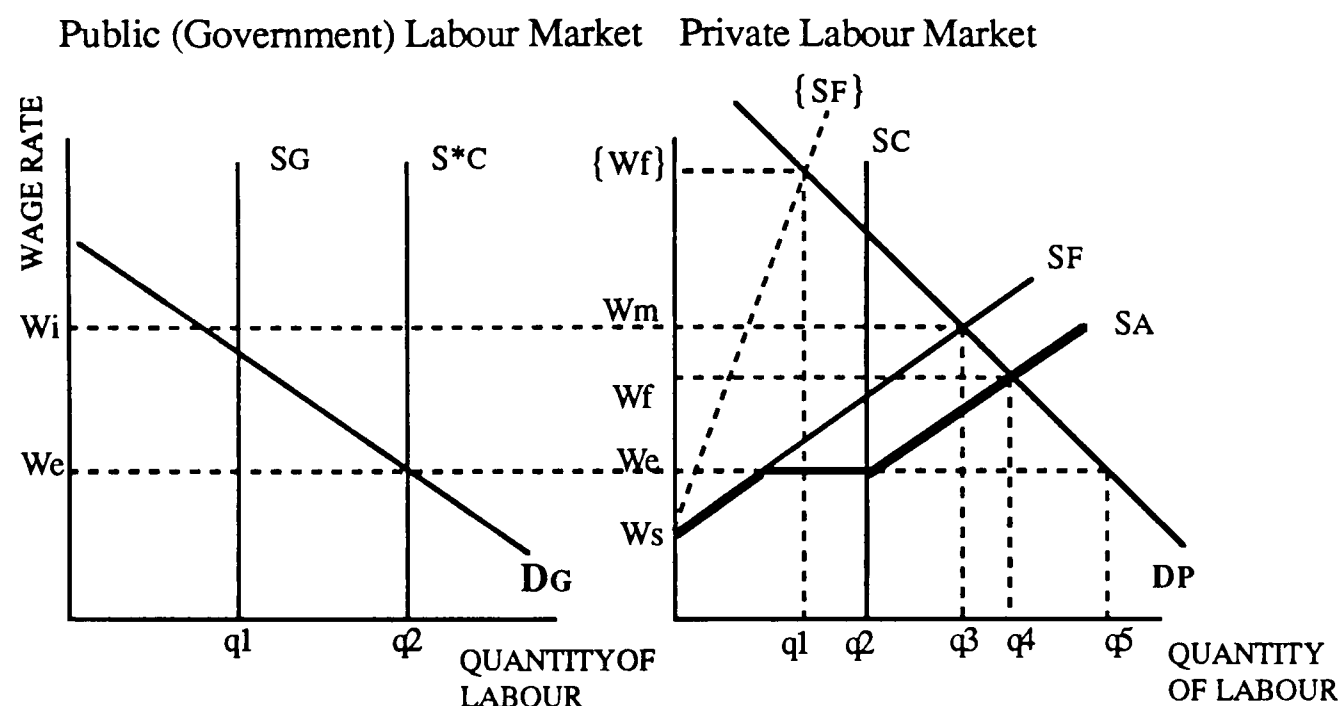
<sup>1</sup> The 1857 census, compiled four years after the arrival of the last convict transport, reveals that 50 per cent of all adults and 60 per cent of all adult males were or had been convicts. H.Reynolds, "'That Hated Stain': The Aftermath of Transportation in Tasmania", *Historical Studies*, Vol.14 No.53 (1969) p.19.

<sup>2</sup> S.L.Engerman, 'Some Considerations Relating to Property Rights in Man', *Journal of Economic History*, Vol.33 (1973), p.46.

<sup>3</sup> S.Nicholas, 'The Convict Labour Market', in S.Nicholas (ed.) *Convict Workers*, pp.113-120.

importation and local accumulation of private capital led by the early 1790s to greater diversity in the demand for labour. Thus, in Van Diemen's Land and New South Wales two labour markets existed side by side. Nicholas' model attempts to explain how these markets functioned as separate yet inter-related entities.

Fig.3:1 The Colonial Labour Market.



Source: S.Nicholas, 'The Convict Labour Market', in S.Nicholas (ed.), *Convict Workers*, (Cambridge University Press, Sydney, 1988) p.115

**The public labour market.** In Nicholas' model the demand curve for Government labour is represented by  $D_G$ . The latter slopes down to the right as the lower the wage rate "relative to the price of all other goods" the greater the demand will be for labour. The labour force in the public sector was historically almost entirely composed of convicts. Therefore, the maximum public labour supply is defined by  $S^*_C$  'the aggregate convict supply curve', which is always equal to the total number convicts under sentence in Eastern Australia at any given point,  $q_2$ . Only a proportion of convicts were retained by the state, however, the rest were either loaned to the private sector as assigned labour or released onto the free market as ticket of leave holders. The supply curve for Government labour  $S_G$  defines the quantity of convicts retained for public works,  $q_1$ .  $q_2 - q_1$  equals the amount of convict labour assigned to the private sector. The position of the public labour supply curve,  $S_G$ , could be shifted outwards by withholding newly arrived convicts in the public sector, or withdrawing assigned labour from private individuals. Conversely, the supply curve could be

shifted inwards by increasing the quantity of assigned labour, granting tickets of leave or freeing convicts.<sup>1</sup>

Convict wage rates were, as we shall see, one of the more complicated features of the labour market. Nicholas defines the rate that all convicts received as  $W_e$ , the 'explicit maintenance wage'. The latter was made up of the government ration, clothing and accommodation. The other wage rate depicted in the public sector model,  $W_i$ , is what Nicholas terms the 'implicit convict wage'. This is the net value of the convict's labour over the period of his or her sentence, in short, the convict's marginal revenue product. The value of  $W_i$  is dependent on skill, age and sex and thus varies from convict to convict.  $W_i - W_e$  equals the amount expropriated by Government for investment in public works. Therefore, the longer the convict remains under sentence the greater  $W_i$  will be and *quid pro quo*, his or her value to the state.<sup>2</sup> In the terms of the Engerman thesis, we can translate this into the benefit which accrues to owners as a result of direct economic exploitation of unfree workers.

**The private labour market.** Both free and convict labour were employed in the private sector.<sup>3</sup> Modelling the private labour market is, therefore, a more complex exercise. The basic components as outlined by Nicholas are as follows. Subject to availability, private employers could choose whether to employ convict or free labour or a mix of the two. Nicholas assumes that their primary concern is to keep their wage bill as low as possible. Thus, he reasons that if any free labour was forthcoming at wage below the value of  $W_e$  it would be hired in preference to convict labour. He argues that it is unlikely that this ever occurred as the value of such a wage, depicted as  $W_s$  on the model, would be little more than a subsistence. Therefore, employers' first preference was for convict labour paid at the minimum government maintenance,  $W_e$ . But, as the supply curve for assigned labour,  $S_C$ , was fixed by government, only  $Q_2$  units of convict labour were available. If the private demand curve,  $D_p$ , rose above

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<sup>1</sup> Nicholas, 'The Convict Labour Market', p.114.

<sup>2</sup> Nicholas, 'The Convict Labour Market', pp. 114-115.

<sup>3</sup> Free labour was forthcoming from three sources. Firstly, time expired convicts, those issued with a ticket of leave which permitted the holder to enter into a free labour contract under certain conditions and those who had received a conditional or absolute pardon bestowing early release from state service. (A conditional pardon restricted the geographical movements of the holder to the confines of the Australian colonies. A ticket of leave holder was restricted to a stipulated police district). Secondly, the colonially born who started to enter the labour market from the 1800s onwards, becoming increasingly important as time progressed. Thirdly, free immigrants who had a profound effect on the labour market after the introduction of assisted passages in the early 1830s before this date the number of free arrivals was small compared to the incoming flows of convict labour. P.R.Eldershaw, *Guide to the Public Records of Tasmania*, section 3, 'Convict Department', (State Library of Tasmania, Hobart, 1965) pp.9 and 38.

$Q_2$ , then additional labour had to be hired at the free labour rate,  $W_f$ . Since historically the labour force was mixed, the actual supply curve is depicted by Nicholas as  $S_A$ . This delivers a total of  $Q_4$  units of labour composed of  $Q_2$  units of assigned convicts and  $Q_4 - Q_2$  units of free workers.<sup>1</sup>

On the basis of this model Nicholas reasons that convictism had two major effects on the colonial labour market. Combined these ensured a higher labour participation rate than would have been forthcoming in a free market economy. Firstly, as outlined by Stan Engerman, convicts like other unfree workers could be pushed off their desired supply curve. Secondly, competition from the pool of convict labour lowered the free wage rate. To illustrate the point, Nicholas argues that if all convicts are treated as free workers and the labour force was paid at a market clearing wage,  $W_m$ , the resultant supply curve,  $S_F$ , would deliver only  $Q_3$  units of labour. That is, less than in the historical mixed economy.<sup>2</sup>

Nicholas' model can be used to explain some features of the Van Diemen's Land economy. As in New South Wales, the supply of convict labour to the private sector often outstripped the demand. When a transport docked at Hobart there were sometimes twice as many applications for assignees as there were convicts on board the vessel. Governor Arthur described the private demand for labour in 1826 as infinitely exceeding "the present capacity of the government to supply".<sup>3</sup> It is evident from Nicholas' model that the natural preference of employers was for  $Q_5$  units of coerced labour paid at the much lower maintenance rate and no free labour.<sup>4</sup> This explains why the restrictions placed on the supply of labour to the private sector were resented, why the allocation board was the target of much political rhetoric and why the withdrawal of assigned labour from a private employer was considered an effective sanction.<sup>5</sup>

The model also provides the opportunity to take issue with a view commonly expressed in the orthodox literature. The recipients of assigned labour were not "unpaid settler-gaolers", for they profited handsomely from their arrangement with the crown. Thus, we can settle a contradiction prevalent in many of the convict histories. Convicts were

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<sup>1</sup> Nicholas, 'The Convict Labour Market', pp. 114-117.

<sup>2</sup> Nicholas, 'The Convict Labour Market', pp. 115-116.

<sup>3</sup> R.M.Hartwell, *The Economic Development of Van Diemen's Land 1820-1850*, (Melbourne University Press, Carlton Victoria 1954) p.71

<sup>4</sup> Nicholas, 'The Convict Labour Market', p.117.

<sup>5</sup> A.G.L.Shaw, *Sir George Arthur, Bart. 1784-1854*, (Melbourne University Press, Carlton, Victoria, 1980) pp.87-90; A.McKay, 'The Assignment System of Convict Labour in Van Diemen's Land, 1824-1842', M.A.Thesis, University of Tasmania, 1959, pp.95-96 and 105-106 and R.W.Connell and T.H.Irving, *Class Structure and Australian History*, (Longman Cheshire, Melbourne, 1980) p.37.



not, as is often portrayed, an inefficient source of labour compared to free workers. Private employers were not forced to become *de facto* wardens for the prisoners of the Crown. Despite frequent derogatory statements about the quality of service provided by convict workers employers knew which side their bread was buttered on. In the private sector the difference between  $W_e$  and  $W_m$  went straight into the pocket of the convict's master/mistress. This explains why, when pressed, these so called auxiliaries of government discipline nailed their colours to the mast and championed reformation through labour. That is, of course, cheap labour.<sup>1</sup>

As Nicholas lucidly demonstrates competition from assigned labour meant that the free wage,  $W_f$ , fell well below the market wage,  $W_m$ . R. M. Hartwell has estimated that in Van Diemen's Land the real value of free wages fell over the period 1820 to 1850. A trend which became increasingly pronounced after 1830.<sup>2</sup> The "Tolpuddle martyr", George Loveless, refuted contemporary claims that Van Diemen's Land was an emigrant worker's paradise. He described labour relations between free women and Hobart employers in the following terms. "Dissatisfaction arise between them and their employers - they talk of leaving. 'you may go,' is the reply; 'we can get plenty of government servants without paying them wages'."<sup>3</sup> The work of Michael Quinlin on early trade unionism in Van Diemen's Land confirms that competition from assigned mechanics was a major impetus for the initiation of artisan political agitation in the 1830s. To give one example, in Hobart in 1834, 32 journeymen tailors combined to present a petition to the governor. They stated, "that they were unable to obtain employment because master tailors were able to have crown prisoners assigned to their service 'at much less expense'".<sup>4</sup> By the late 1840s the same group of workers had taken their fight to the streets of Hobart where they physically intimidated convict pass holders in the employ of the tailoring establishment 'Lightfoot and Lyons'.<sup>5</sup> The

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<sup>1</sup> Shaw, *Convicts & the Colonies*, pp.218 and 220-221.

<sup>2</sup> Hartwell, *The Economic Development of Van Diemen's Land*, pp.65 & 85-93.

<sup>3</sup> G.Loveless, *The Victims of Wiggery*, (Central Dorchester Committee, London, 1838) reprint (Communist Party of Great Britain, London, 1969) p.26.

<sup>4</sup> Quinlin provides a further illustration of the extent to which free artisans understood the mechanics of the labour market. One of the demands of the early trade union movement was that a tax should be placed on assigned labour. If this had been implemented it would have cut the level of income transfer from Government to private owners, thus making the employment of skilled free labour a more attractive proposition. M. Quinlin, 'Trade Unionism and industrial Action in Tasmania 1830-1850', *T.H.R.A.*, Vol.3 No.1, (1986) pp.12 and Nicholas, 'The Convict Labour Market', pp.116-118.

<sup>5</sup> Quinlin, 'Trade Unionism and industrial Action', p.19; Hartwell, *The Economic Development of Van Diemen's Land*, p.92 and A.Melbourne, *Early Constitutional Development in Australia*, (University of Queensland Press, St Lucia, 1963) p.230.

standard accounts of convict society have uncritically accepted the testimony of colonial employers. In real terms, the free wage was not "high".<sup>1</sup>

Quinlin's work provides further factual support for Nicholas' argument. It is evident that a major goal of early artisan political agitation in the colony was the abolition of transportation.<sup>2</sup> Confirmation of the Nicholas assertion that the manner in which convict labour was deployed in Eastern Australia ensured that abolition was fought along "class lines".<sup>3</sup> Yet, as we have already seen, it was not only the employers of assigned or probationary labour who encountered the wrath of an emerging labour movement. Long after the cessation of transportation ex-convicts were viewed with hostility and suspicion by other working class Tasmanians.<sup>4</sup> The Ward thesis has never comfortably fitted the reality of post-transportation Tasmania. It takes a stretch of the imagination to see the unique characteristics that moulded the "Australian legend" in the faces of the destitute ex-convicts photographed at Port Arthur in the 1870s. Nicholas' model helps to explain why long after abolition Tasmanians of all social classes still referred to convictism as "that hated stain".<sup>5</sup>

The events which followed the introduction of the probation system provide further evidence that Nicholas' assumptions are basically sound. Following the parliamentary committees of 1837-38, the convict system in Van Diemen's Land was radically restructured. Between 1839 and early 1840 assignment to private individuals ceased. Convicts were instead placed in probationary gangs and worked in the public sector for a period of one to four years. After completing their period of probation they were returned to the private sector on a fixed wage of £9 per annum. Thus, while in the long run the flow of unfree labour was maintained, there was a period in the early 1840s' when the private market had to rely exclusively on non-convict labour. At the time the colony was experiencing a period of economic expansion. This was stifled as free wages rose in the absence of competition, forcing the supply curve to find a new equilibrium point and thus reducing the labour participation rate. By 1841 the economy was in decline and employers began to pressurise the Colonial Government to increase the free labour supply. Investment in public works was curtailed and £60,000 was

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<sup>1</sup> Shaw, *Convicts & the Colonies*, p.226; R.Miles, *Capitalism and Unfree Labour: Anomaly or Necessity?*, (Tavistock Publications, London, 1987) p.99 and Connell and Irving, *Class Structure and Australian History*, p.42.

<sup>2</sup> Quinlin, 'Trade Unionism and industrial Action', pp.14 and 19 see also a 'Petition of working mechanics residing in Hobart, P.P. 1849 (1121.) XLIII -351, Enclosure 1, No.17.

<sup>3</sup> Nicholas, 'The Convict Labour Market', p.117.

<sup>4</sup> Reynolds, "'That Hated Stain'", p.27.

<sup>5</sup> For convicts and the Australian Legend see R.Ward, *The Australian Legend*, (Oxford University Press, Melbourne, 1958) pp.15-42.

voted for immigration costs. Over 2000 free migrants arrived in 1842 alone. They joined the labour market at the same time as the first wave of probation pass holders were released into the private sector. Wages immediately fell and pauperism became wide spread. It was not until 1846 that the situation began to stabilise, thanks largely to an exodus of free labour to Victoria and New South Wales (see Appendix 2).<sup>1</sup>

The model also provides a vindication of the British Government's decision to use convict labour to pioneer the settlement of Van Diemen's Land and New South Wales. Nicholas argues that if no convicts had been sent initial growth rates would have been extremely slow. He argues that with a much smaller population the free wage rate would have been much higher than under convictism,  $\{W_f\}$ , and the resultant supply curve,  $\{S_f\}$ , would have delivered only  $Q_1$  units of labour.<sup>2</sup> Immigration rates for Van Diemen's Land lend support for this thesis. Only 16,651 free arrivals were recorded in the period 1829 to 1851 compared to 53,291 convicts.<sup>3</sup> While some may argue that without the "stain" of convictism the volume of free immigration would have been substantially larger, this should by no means be taken for granted. It is difficult to envisage the early colony achieving a level of growth sufficient to attract sustained free migration without the initial impetus historically provided by the convict workforce.<sup>4</sup>

The evidence suggests that Nicholas' model can be successfully applied to Van Diemen's Land and this study endorses the major conclusions of this chapter of *Convict Workers*. To summarise, the colonial deployment of convict labour resulted in a level of labour participation greater than might have been expected in the absence of convicts. Under convictism considerable economic benefits accrued to both the colonial authorities, and the private recipients of assigned labour, however, these two essentially different sectors of the economy were inter-related. The state in particular had a great deal of control over the labour supply to the private market. By restricted or

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<sup>1</sup> Hartwell, *The Economic Development of Van Diemen's Land*, pp.76-85. The situation was deemed serious enough for the residency restrictions attached to conditional emancipation to be waived. Convicts originally freed on condition of their remaining in Van Diemen's Land were granted special dispensation to move to the mainland in search of work. *The Observer*, 20 February 1846.

<sup>2</sup> Nicholas, 'The Convict Labour Market', pp.115 and 118.

<sup>3</sup> Data for convict arrivals from Eldershaw, 'Convict Department', Appendix 5, p.64. Free arrivals from N.G.Butlin, 'Contours of the Australian Economy 1788-1860', *Australian Economic History Review*, Vol. 26, No.2 (1986) p.100. Data for free arrivals is not available for the period before 1829.

<sup>4</sup> In the early seventeenth century the Virginia Company experienced great difficulty in attracting free immigrant labour to its North American plantations. The solution they adopted has distinct parallels to the Australian experience. They advanced the cost of the passage to migrants and then worked them at a maintenance wage in America for an agreed period. Indeed, as we have already seen, a substantial proportion of these indentured servants were convicts. As in convict Australia, indentured labour was successfully used to increase the labour participation rate and hence stimulate initial growth levels which could not be obtained by the use of conventional immigration alone. Galenson, 'The Rise and Fall of Indentured Servitude', pp.1-13.

expanding the quantity of convict labour and mix of skills supplied to the private sector, the colonial government could manipulate wages. It could also impede or accelerate growth rates in specific industries, or in the economy as a whole, if it so chose. Yet the model tells us comparatively little about the actual mechanics of the convict system. How did it extract labour from the unwilling bodies of convicts? Were the critics of transportation right in assuming that system was a giant lottery? How efficient was it at matching the array of convict skills to the range of colonial job requirements?

### III

#### Fitting the "Right" Workers to the "Right" Jobs.

In Van Diemen's Land the initial appropriation of convict labour was administered by a board of assignment. Applications for assignees were received prior to the arrival of a ship. Allocations to the public and private sectors were then made on the basis of the information available to the board. This included the occupation, means and character of the applicant, the range of convict skills available and the labour requirements of public policy. The crucial test of efficiency is the extent to which assignment succeeded in matching "the 'right' workers to the 'right' jobs" given the overall requirements of the economy.<sup>1</sup> This was a task which was very much dependent on the quality of information available to the allocating body.

As a first step towards assessing the efficiency of assignment in Van Diemen's Land, two appropriation lists for convict vessels arriving in the 1835-36 period were examined.<sup>2</sup> These records were compiled from several sources including the Indent and the Hulk and Surgeons' reports. Armed with this information the Muster Master and the Superintendent of convicts interviewed each transportee before the latter was disembarked. Contemporaries considered this to be an effective method of eliciting further details from convicts. In Governor Arthur's words,

The man perceives at once that the officer who is examining him does know something of his history; and not being quite conscious how much of it is known, he reveals, I should think, generally a very fair statement of his past life, apprehensive of being detected in stating what is untrue.<sup>3</sup>

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<sup>1</sup> Nicholas, 'The Convict Labour Market', p.120.

<sup>2</sup> The vessels were the *Aurora*, arrived 14 Oct. 1835 and the *Elphinstone*, 30 May 1836, A.O.T. Con.27.

<sup>3</sup> Quoted in Eldershaw, 'Convict Department', p.7.

One of the principle functions of this operation was to cross-check the statement of each convict with the occupational data supplied in his or her indent. This process was used to identify those skilled workers who had completed their training and separate workers with diverse callings into the sections of their trade. Thus shoemakers and tailors were categorized according to skill (can cut out or can't) and by area of specialization, for example: coat; boot; children's, etc.. Special care was paid to the recording of agricultural skills and this is reflected in the extremely detailed returns for this section of the sample. Ability to plough, harrow, sow, mow, milk, thatch, shear, tend various types of livestock, break horses, cultivate hops, castrate lambs, treat scab, navigate ditches and poach were all listed.<sup>1</sup> The net result is that the appropriation lists provide occupational data of a greater quality than that of the indent, listing up to six skills for each convict.

This information was used to allocate labour between the private and public sectors of the economy. A perfect allocation was impossible for two reasons. First, in some areas of the colonial labour market there were fewer job openings than there were skilled convicts to match. This appears to have been especially true of the textile industry and certain areas of metal manufacture and allied trades. These workers had either to be retrained or worked in positions below their potential capacity. Secondly, many convicts could perform more than one job. Although sometimes a position could be found that utilized several skills at once, this was not always the case. Such workers were often deployed according to the skill which was in most demand.

It is apparent from Table 3.1 that convict workers were allocated between sectors largely on the basis of occupation. Of the 506 convicts who arrived on the *Aurora* and the *Elphinstone*, 129 were retained for work in the public sector. Amongst the latter, workers from two occupational categories, transport and construction, predominate (see Table 3.1). A further numerically small group of white collar and professional workers were exclusively set aside for Crown use. The labour supply to the private sector of the economy was dominated by two large occupational categories, adult unskilled labourers and agricultural workers. Other smaller, but highly significant groups of labour, were disproportionately allocated to private managers, notably domestic servants and workers from the food, clothing, retail and metal industries.

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<sup>1</sup> I take it that "poach" was a convict joke, however, it is interesting that the interviewer thought that the latter constituted a useful skill and was worth recording.

**The public sector labour supply:** The convicts selected to work in the public sector provided labour for three areas of the economy largely managed by the colonial authorities. These were, the creation of infrastructure, transport, and communications and the supply and administration of the convict system.

a) **Production:** Convict labour was extensively used to construct roads, bridges, wharfs, viaducts and public buildings. The development of a colonial infrastructure not only engaged large amounts of penal labour but absorbed a high percentage of incoming skilled construction workers. Although small numbers of carpenters, sawyers and brickmakers from the *Aurora* and *Elphinstone* were assigned to private individuals, the majority of convicts with building skills were allocated to the Road, Survey and Engineer departments. Other workers were selected for specialised construction projects. Thus, colliers and well sinkers were employed on the excavation of the Morven tunnel. Examination of the appropriation lists reveals that some workers were especially sought after. Navigators, who could also plough and process carcasses, were assigned to the Roads Department in preference to the rural sector.

Table 3.1      The allocation of labour to the public and private sectors 1835-36.					
	Public Sector	Private Sector	Invalids & Defectives	Left Vacant	Number of.
Domestic service	10%	87%	3%	0%	32
Adult labourers with no other recorded skills	12%	87%	1%	0%	71
Agricultural workers & gardeners.	13%	83%	2%	2%	152
Butchers, leather & cloth workers, retail industries.	19%	71%	9%	1%	79
Metal workers and allied trades.	29%	71%	0%	0%	18
Transport workers, seaman, carters, drivers.	58%	28%	8%	0%	66
Construction (inc. ships) and mining.	85%	15%	2%	2%	36
Professional & clerical.	100%	0%	0%	0%	7
Boys	9%	23%	1%	67%	75
Source; Appropriation lists for the convict ships <i>Aurora</i> and <i>Elphinstone</i> , A.O.T., Con.27					

Although in Van Diemen's land the production of foodstuffs was almost exclusively left to the private sector, a range of other goods were manufactured publicly to supply government demand. These included tools, footwear and clothing. Production was

carried out in workshops and primarily located within the Prison Barracks. A small number of artificers from the two ships examined were selected for these operations. Other construction projects were pursued by teams of highly skilled workers labouring in yards and depots. The primary function of these industrial units was to produce goods which facilitated the development of infrastructure and provided the means to supply a geographically dispersed work force. As Van Diemen's Land was an island, ships were an especially important form of transport and a premium was placed on their construction. In the sample examined, all but one convict from the ship building industry was sent to the King's Yard. Other skilled convicts from the *Aurora* and *Elphinstone* were employed on the construction of government carts and other forms of transport. As production was organised on a team basis, it was possible to employ a high degree of vertical linkage. Thus, the individual components, for example, spars, masts, futtocks, knees, and ropes, could all be manufactured and assembled into a composite object on the one site. This eliminated significant administrative and transport costs.<sup>1</sup>

**b) Supply:** The local manufacture of ships and carts required further drafts of skilled transport workers before the benefit of these utilities could be realized. It was convict carters and sailors who transferred labour, raw materials and equipment to and from construction gangs. It was these workers who manned the penal system's own supply network, distributing stores between the different branches of the Commissariat Office.

**c) Maintenance:** The physical maintenance of the government workforce as an effective body made large demands on the logistical resources of the Crown. To a considerable extent, however, suitably skilled convicts could be found to perform the most complex and demanding functions that this task entailed. Two surgeons were transported on the *Elphinstone* and *Aurora*, both were appropriated by the government, one to be attached to the Road Department and the other to the Dispensary at New Norfolk. One of the strengths of *Convict Workers* is the emphasis it places on the quality of the convict diet. To paraphrase Steve Nicholas, the level and quality of the convict diet, particularly the calorie and nutritional intake, was bound to effect the level work productivity. Nicholas demonstrates that convict rations compared favourably with those supplied to other coerced workers and, indeed, the contemporary English working class diet.<sup>2</sup> The task of preparing and distributing rations to thousands of workers in government employ was, at every level bar administrative, conducted by the

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<sup>1</sup> S.Nicholas, 'The Organisation of Public Work', in S.Nicholas (ed.) *Convict Workers*, p.157.

<sup>2</sup> S.Nicholas, 'The Care and Feeding of Convicts', in S.Nicholas (ed.) *Convict Workers*, pp.183-187.

convicts themselves. Three of the 14 butchers transported on the *Elphinstone* and *Aurora* were allocated to the Government Slaughter house and one out of the seven cooks and bakers sent to the kitchens in the Prison Barracks. These workers were used to supplement numbers in existing maintenance units. They were worked in supervised teams in purpose built, or kitted out, accommodation.

In addition to feeding and caring for the convict population, the administrative system which co-ordinated the many functions of a penal colony required maintenance. Again, workers suited to this task could be found upon incoming transports. Between them, the *Aurora* and *Elphinstone* brought four clerks and an attorney to Van Diemen's Land. All of these men were employed in the Clerks' Room in the Prison barracks recording and transcribing entries in the various convict registers. Employment was also found for a bookbinder in the Audit Office.

One of the advantages of this system of labour appropriation was its flexibility. If a change in development strategy required a mix of labour that could not be found within the system, appropriate convicts could be assigned to the task from the flow of incoming arrivals. This avoided the inconvenience of recalling workers from the private sector and/or reshuffling the distribution of labour on public works. The beauty of this was its simplicity and the appropriation lists show how it worked on a small scale. The decision to rebuild the Aboriginal agricultural settlement on Flinders Island necessitated the assembly of a construction gang with an appropriate mix of skills. To meet this demand 22 convicts were selected from the *Elphinstone* (see Table 3.2).

Table 3.2		Composition of the Flinders Island Gang, 1836.
1 x	Bricklayer	
1 x	Bricklayer's labourer	
2 x	Brickmaker and general farm hand	
1 x	Brickmaker	
1 x	Plasterer	
1 x	Carpenter and joiner	
1 x	Ship and house carpenter	
1 x	Whitesmith	
2 x	Labourer	
1 x	Ploughman and general farm hand	
1 x	Ploughman and shepherd	
1 x	Kitchen gardener	
8 x	Seaman	

Source; Appropriation list for the convict ship *Elphinstone*, A.O.T., Con.27

At least for the period covered by this survey, several observations can be made about the manner in which the public labour market functioned. First it appears to have



succeeded in placing newly arrived workers in the right jobs. Secondly, the public sector was much more than a system of road gangs. Thus, while the government demand for labour drew heavily on certain types of construction worker, numbers were maintained in an array of ancillary positions by selecting suitable convicts from the regular influx of fresh arrivals. Thirdly, it was a system which was to a large extent maintained by the convicts themselves. They produced, prepared, supplied and maintained a high proportion of the mix of goods and services that the state required. Fourthly, the system was flexible to the extent that if a change in development strategy required a new combination of skills these could be selected from incoming transports. Thus, unless the change was large, un-necessary displacement of workers from productive tasks could be avoided.

It is apparent that there is one category of worker missing from this analysis of the allocation of labour to the public sector. Where did the muscle power for performing low skill, heavy manual tasks come from? As we have already seen the majority of unskilled workers were allocated to the private sector. Monotonous tasks, like the crushing of aggregate and the removal of earth and stones, were performed instead by punishment gangs. In all, five percent of the convicts who arrived on the *Elphinstone* and the *Aurora* were ordered by the Secretary of State to be worked on the roads. In respect of these workers, assignment was a lottery. For they were not selected for the task because they were particularly well suited to hard manual labour, but on the basis of adverse reports passed to the superintendent of convicts from the ships' surgeon. In fact, only two out of the 26 convicts in this category were labourers with no other recorded skill. While there were only limited job openings for drapers, cigar makers and errand boys, other convicts possessed skills for which there was a high colonial demand. They included six ploughman, a shepherd, a waterman, a top sawyer, two stonemasons, a butcher and a cooper.

**The private sector labour supply:** While the mechanics of assignment are fairly straight forward, analysing the distribution of convict labour within the private sector is a more complicated task. Private demand for convict labour was articulated via a request to the assignment board. As employers applied for convicts with specific skills the board was able to assess the overall requirements of the private sector labour market. There was no obligation on the part of the state to comply with an employers request for a specific quantity of convicts or mix of skills. On the other hand, with the exception of recent settlers (required to support one convict for every 100 acres of land

received), employers were not obliged to accept the convicts they were actually offered.<sup>1</sup>

Private sector demand was primarily for domestic servants, agricultural workers and convicts with certain specialised commercial and industrial skills. Contemporaries termed the allocation of domestic servants to private households, 'luxury' assignment. Most of the convicts supplied to fill these requirements were female, but it would appear that male coachman, valets and butlers were especially sought after by the élite of Hobart and Launceston. Commercial assignments cover those workers allocated to the import and retail sectors of the economy. The demand for labour came from a number of urban based shipping merchants and an array of smaller retail establishments with requirements which matched a wide variety of skills. By the mid-1830s the colony could boast a wide range of industries (see Appendix 3). It seems doubtful, however, that any of these were truly large concerns and while convicts with appropriate skills would have been in demand, this sector of the economy cannot have absorbed large quantities of unfree labour. The agricultural sector was by far the biggest overall employer. While the primary demand of landed settlers was for convicts with agricultural skills this was not exclusively so. In the 1830s many of the larger properties in the interior were still relatively isolated by distance and poor communications from the colony's urban centres. Therefore, some goods in local demand were manufactured on site by convict blacksmiths, tailors, carpenters and other craftsmen.

It is when we start to examine assignment on a more detailed basis that we run into trouble. The first problem is that the appropriation returns do not list the occupation of the recipients of convict labour, although their district, and/or place of residence, is usually given. The first census of the island's population was not conducted until 1842, thus there is no comprehensive source of occupational data available for the mid-1830s. Trade directories were published annually in local almanacs, but the information supplied is restricted to the Hobart area. By comparing the return of land grants with deeds and title transactions it is possible to identify a majority of landholders. These records also supply some occupational data. However, as it was not compulsory to register property transactions before 1827 there is a large gap in these records. There does not appear to be a way of identifying land purchasers or sellers in the period 1820-27. This, combined with the lack of information on tenancy, renders the compilation of a comprehensive list of landholders an impossible task.

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<sup>1</sup> Eldershaw, 'Convict Department', p.7.

There are other problems associated with examining the assignment of convicts to what may loosely be termed the rural sector. While it is possible to identify a large number of landholders it is not possible to determine how this land was utilised. The volume of property transactions suggest that speculation was rife and much land, especially marginal tracts, was left 'unimproved'. A more serious problem arises when we attempt to isolate rural from industrial and commercial concerns. Many farmers and graziers pursued other economic activities which broadened their demand for labour. Examples include: the Nichols family who farmed a grant at Clarence Plains and owned a boat yard at Hobart; Robert Parkinson a large farmer in the Bothwell district who ran the local store; John and William Presnell, who used their land holdings to raise stock, ran a tannery and, to complete a rather sophisticated operation, also owned a shoemaker's shop. Other mid-1830s agriculturalists operated mills, bay whaling stations and a soap boiler.<sup>1</sup>

Within these limitations some broad observations can be made about rural assignment. Of the convicts on the *Aurora* and *Elphinstone* who were assigned to the private sector, 85 per cent of those with agricultural skills went to masters who were definitely land holders in January 1836. These were supplemented with drafts of other skilled workers in demand on the large properties of the interior. Six out of the eight butchers and five of the eight shoemakers allocated to private individuals were disposed of in this manner. They were joined by an assortment of metal workers, the only harness maker in the sample, a carpenter, a brickmaker and a cook. With the exception of the Van Diemen's Land Company, the number of convicts worked on individual properties was relatively small. The 1838 police magistrates returns for the districts of Westbury and Morven show that even on large mixed farms it was unusual to employ more than 25 convicts.<sup>2</sup>

The diary of Adam Amos, District Constable for Swanport, gives more detailed returns for an earlier period. Amos recorded the amount of land under tillage and the number of stock held by the five established settlers in his district in January 1824. Two and a half

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<sup>1</sup> H.Melville, *Van Diemen's Land Almanack*, 1835 and 'Registers of Land Conveyance', 1827-1835, *Deeds and Titles Office, T.S.G.*.

<sup>2</sup> The largest concern detailed in these returns is that of the emancipist Richard Dry. Although this individual was a director of the Cornwall Bank, he does not appear to have had any other non-rural business interests. By the late 1830s he owned several thousand acres in the north west of the colony centred on his country estate at Elphin. In 1838 he was running 18,000 sheep, 2,000 cattle and cultivated 220 acres of crops. Yet, only 28 convicts including craftsmen and domestic servants worked on his property. Author not supplied, 'Labour in Rural Van Diemen's Land', *Push from the Bush*, Vol.22, (1986) pp.39-47.

months earlier he made a similarly detailed return of the inhabitants of Swanport. The largest concern was William Talbot who had 40 acres under crops and ran 3010 sheep and 320 cattle. Talbot himself appears to have been bachelor. However, Thomas Buxton, his wife, four children and George a "Native" boy are recorded as living with him. Thomas, who appears to have arrived free, was probably Talbot's overseer. As the four children were all aged ten or less, and the Aboriginal child is recorded as a one year old, the free labour force amounted to only two males and Buxton's wife, Ellen. The estate's convict workforce consisted of three shepherds, five stockmen, a ploughman, a labourer and a government carpenter on loan. The job descriptions entered by Amos suggest that Talbot had three flocks of approximately 1000 sheep, but that cattle rearing was more labour intensive utilising one specialist worker for every 64 head. These returns are supported by the evidence from the neighbouring establishments. The Meridiths, the only other large sheep concern, ran 1,200 head with just one shepherd, yet the district's cattle farmers averaged just 72 head for each stockhand. It should be noted, however, that little emphasis was placed on the wool crop in the early 1820s, as the principle market lay in the internal consumption of mutton. In later years, as fine wool became a more important commodity, growers almost certainly reduced the number of sheep to each specialised worker, and introduced fencing and improved grass and stock strains, all of which consumed a greater proportion of labour.<sup>1</sup> It is, however, apparent that flocks were shorn in this earlier period, probably to keep a check on scab. It is clear from Amos's diary that this work was carried out at Swanport by loaned labour: "Two sheep shearers who have been shearing Mr Talbots sheep arrived to give in their passes which should have been delivered to me by Mr Buxton on the 22nd last month Mr B. had neglected it."<sup>2</sup>

Apart from Talbot's government carpenter there are four other non-agricultural specialist convict workers listed in Amos's returns. These were David Christmas, cook to the Harts, and John Class, Robert Gay and William Holles, respectively, tailor, shoemaker and blacksmith to George Meredith. We can assume that the latter three also serviced the basic requirements of the other settlers who tended payment to Meredith. This arrangement was undoubtedly widespread and accounts in part for the high demand for craftsman in rural areas.<sup>3</sup>

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<sup>1</sup> Diary of Adam Amos, 19 October 1823 and 2 January 1824, A.O.T., N.S. 323/1 Dixon suggests that improved flocks required about one worker for each 300 head, J.Dixon, *A Narrative of a Voyage to New South Wales and Van Diemen's Land*, (John Anderson, Edinburgh, 1822) reprint (Melanie publications, Hobart, 1984) p.72.

<sup>2</sup> Passes were granted to convicts who were required to travel from one police district to another. We can ascertain, therefore, that the shearers were not drawn from the local convict labour supply. Diary of Adam Amos, 15 December 1823, A.O.T., N.S. 323/1.

<sup>3</sup> Diary of Adam Amos, 19 October 1823 and 2 January 1824, A.O.T., N.S. 323/1.

As can be seen from Table 3.1, an overwhelming proportion of adult unskilled workers were allocated to the private sector in preference to the public works. In the sample examined, 63 per cent of these workers were lent to landholders. We can thus tentatively conclude that the demand for labour in the rural sector was significant enough for the brunt of job restructuring to be born by this group of employers.

Lack of background information precludes any comprehensive analysis of assignment to other sectors of the economy. However, Individual case assessments suggest that some effort was taken to supply skills that were surplus to public requirements to appropriate private manufacturing and retail outlets. For example, the tailoring establishment of Fitzgeralds in Elizabeth Street, Hobart, was assigned a tailor from the *Aurora* and the publisher of the *Launceston Advertiser* received a printer and letter press man from the same vessel. Michael Dawson, a Hobart builder, may have counted himself fortunate for he was allocated two convicts with skills that fitted the requirements of his business: a bricklayer's labourer and a painter.<sup>1</sup> Other convicts were assigned to private concerns which could clearly benefit from the skills they brought. For example, the sail maker, Neil Bastrien, received a boatman, while the shipping merchant, Askin Morrison, was assigned a cooper.<sup>2</sup> The evidence does not fit Hirst's description of assignment as a job lottery.<sup>3</sup>

Within the sample, the only group of convicts that the colonial authorities found difficult to allocate were juveniles. Some "boys" with agricultural or limited commercial skills (for example, farm boys, shop boys and messengers) were taken up by the private sector. On the whole, however, it would seem that employers were reluctant to pay juveniles at the standard convict rate and receive in return only a portion of the output they could expect from adult convicts. As we have seen, public sector allocation was highly skill specific. Beyond a few openings for errand boys, the public works had little use for child labour. As the maintenance wage was fixed at a minimum, no short term provision could be made to make the employment of children a more tempting prospect. The colonial government was forced to maintain this category of convict until they were sufficiently trained to be released on to the job market. To this

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<sup>1</sup> L.L.Robson, *A History of Tasmania*, Vol.1 (Oxford University Press, Melbourne, 1983) pp.182 & 286; Melville, *Van Diemen's Land Almanack*, 1835 and A.O.T. Con.27.

<sup>2</sup> 'Registers of Land Conveyance', 1827-1835, *Deeds and Titles Office, T.S.G.* and A.O.T. Con.27.

<sup>3</sup> J.B.Hirst, *Convict Society and its Enemies*, (George Allen and Unwin, Sydney, 1983) p.61. See also Connell and Irving, *Class Structure and Australian History*, p.45.

end a juvenile establishment, Point Peur, was constructed adjacent to Port Arthur on the Tasman peninsula.

To summarize, this survey of the allocation of convict labour in the mid-1830s' suggests that far from being a job lottery, the convict system was efficient at placing newly arrived convicts in suitable work locations. To this end considerable care was taken in collating and assessing convict occupational data. In nearly all cases the distribution of workers was made solely on the basis of this information and the colonial authorities assessment of public and private sector labour requirements. While the public sector reserved the right of first choice, the quantity of labour supplied to private individuals was not ungenerous. Of the convicts on the *Aurora* and *Elphinstone*, only 25 per cent were earmarked for government use. Although this included a high proportion of construction workers and all professionals, the private sector was supplied with an array of useful skills. An assessment of the efficiency of job matching is severely impeded by the dearth of information on private sector employers. The limited evidence suggests that the government complied with employers requests to supply specific skills where possible (subject to the labour requirements of public sector development). That the private sector was prepared to take up large quantities of plain labourers and convicts with skills surplus to colonial requirements provides further evidence that the unfree were a commodity much in demand. Yet, the low uptake of "boys" suggest that the advantage of employing convict over free labour may have been narrower than that implied by Nicholas.

A breakdown of the distribution of convict skills between the two sectors of the economy reveals a sophisticated degree of central planning. Because the colonial government was able to control the quantity of unfree labour and the supply of skills to the private sector it exercised a high degree of control at all levels of the economy. As far as the private sector was concerned, the convict system presented masters with several advantages. First and foremost, unlike other unfree labour systems they were not required to pay an initial purchasing cost. This considerably reduced the capital risks of opting for bond over free labour. For a plantation owner, every premature slave death or long term runaway represents a loss of considerable capital investment. In the convict system such events were perhaps upsetting, but had limited economic implications as the investment loss to the master was measured in terms of job training rather than purchasing and/or nurturing fees. Indeed, it was possible that a master unexpectedly deprived of the services of a convict would be able to obtain a replacement more suited to his needs from the government pool. In fact, the whole

question of substituting, recruiting or firing workers was much less complex than in a system where property rights in labour power were invested in many owners. Because in Van Diemen's Land the colonial administration acted as one huge labour bureau, it was much easier for private individuals to adjust their workforce according to business fluctuations. Workers could be rotated between many private sector locations and the government pool without entailing the complex financial transactions which stifled the mobility of labour in slave societies.<sup>1</sup> As an institution, the convict system possessed many of the advantages of slavery without some of the more notable drawbacks.<sup>2</sup>

#### IV The Work Process.

Hirst has sought to compare favourably the conditions experienced by convicts with those of the British workers.<sup>3</sup> However, the argument is largely irrelevant, for, as John West observed; "True, he (the convict) was well fed, while many in England laboured hard, and yet went hungry and poor; but nothing reconciled the prisoner to his bondage: he compared his condition not with the British pauper, but theirs who, though working in the same field, were masters of their own labour".<sup>4</sup> As West appreciated, it is the term of the contract which distinguishes the free from unfree, rather than the relative material positions of the two groups of workers. Regardless of their actual living standard, convicts, like other unfree workers, were unlikely to provide a labour service merely because they were supplied with a maintenance. Indeed, they recognised that no matter how much work they actually undertook, at the end of the day they would have to be fed. Since the combined value of their ration, clothing allowance and accommodation was less than their marginal revenue product they had to be induced to work for master and state.<sup>5</sup> "Coercion" is one method of eliciting labour from labour

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<sup>1</sup> It should be noted that widespread fluctuations in labour demands did place considerable strain on the system. This was particularly the case in the mid-1820s when falling wheat prices led to a rapid contraction of the private sector agricultural labour supply. Unable to relocate surplus labour with other private employers the administration was forced absorb many agricultural workers within the public sector in jobs which under utilised their latent skill potential.

<sup>2</sup> E.D.Genovese, 'The Slave South: An Interpretation', in J.Lankford and D.Reimers, *Essays on American Social History*, (Holt, Rinehart and Winston, New York, 1970) p.78.

<sup>3</sup> Hirst, *Convict Society and its Enemies*, p.26.

<sup>4</sup> J.West, *The History of Tasmania*, (Henry Dowling, Launceston, 1852) reprint (Libraries Board of South Australia, Adelaide, 1966) Vol.2, p.231.

<sup>5</sup> Nicholas, 'The Organisation of Public Work', p.125; Engerman, 'Some Considerations Relating to Property Rights in Man', pp.45 and 61 and G.Canarella and J.A.Tomaske, 'The Optimal Utilization of Slaves', *Journal of Economic History*, Vol. 35 (1975), pp.622.

power and historically, both free and unfree workers have been induced to labour by the use of various pain incentives.<sup>1</sup>

Labour systems which rely on coercion are often viewed as inefficient. This is because physical inducement to labour and the high levels of supervision that this entails is assumed to be: (a) costly and (b), to a large extent counter productive in that they further depress the rate of voluntary labour participation.<sup>2</sup> To use Steve Nicholas' phrase, there is "no greater symbol of inefficiency at work than the lash".<sup>3</sup>

There is no doubt that coercion was employed in Australia. Convicts knew the score, at the end of the week they had to be fed, regardless of their actual output. Some measure of force was necessary to increase the rate of work participation. In common, however, with other labour systems, both free and unfree, the use of negative incentives was offset by a wide range of positive inducements. It is evident from the theoretical literature that the extent to which this "carrot and stick" approach succeeded in extracting labour depended on the manner in which positive and negative incentives were structured within the convict system.

Various inducements to labour have different effects on "worker performance". The explicit or implied use of pain incentives increases anxiety. Thus, while these measures may be effective in increasing participation levels, the care and attentiveness of workers is reduced. Beatings have the additional effect of raising the level of workforce resentment and thus, by implication, the rate of work related sabotage. Owners can minimize the negative effects of coercion through appropriate organization of the labour process. An increase in supervision will reduce the rate of sabotage, ensure that careless work is detected at an early stage and generally facilitate the effective employment of negative sanctions. Supervision costs can be minimized by organizing workers into gangs or teams, each under the eye of one invigilator. Where possible, reduction in capital inputs will reduce the likelihood of severe loss through accidental or willful damage. Thus, negative incentives are most effectively employed where the work undertaken requires little skill, high inputs of manual labour and low inputs of capital.<sup>4</sup>

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<sup>1</sup> See for example C.Nardinelli, 'Corporal Punishment and Children's Wages in Nineteenth Century Britain', *Explorations in Economic History*, Vol.19, No.3 (1982) pp.283-295.

<sup>2</sup> H.Temperly, 'Capitalism, Slavery and Ideology', *Past and Present*, No.75 (1977), pp.106-118.

<sup>3</sup> Nicholas 'The Convict Labour Market', p.113.

<sup>4</sup> S.Fenoaltea, 'Slavery and Supervision in Comparative Perspective a Model', *Journal of Economic History*, Vol.44, No.3 (1984) pp.637-643 and R.Findlay, 'Slavery, Incentives, and Manumission: A Theoretical Model', *Journal of Political Economy*, Vol.83 (1975) p.924.



Conversely, coercion ceases to be an effective method of extracting labour when production becomes capital and care intensive. This applies especially to tasks which require a small input of labour. In such cases the potential costs of worker inflicted damage are high and yet the small numbers employed make constant supervision an expensive option. Shepherds and domestic servants are a case in point. Livestock is an easy target for malicious action, yet effective supervision would require a ratio of one invigilator to each worker. The situation is similar for servants, except that their actions can directly affect the well being of their owners. It is a relatively simple operation for a coerced cook to poison his or her owner's entire family. In these situations positive incentives are a safer and more efficient means of eliciting labour from labour power.<sup>1</sup>

To summarize, the owners of unfree labour can optimize output by employing the mix of positive and negative incentives most appropriate to the organization of the work process. There is, in short, an incentive fulcrum. This will be tipped in favour of the use of the "stick" where the marginal product of force per additional unit of expense declines less rapidly than the marginal product of positive incentives per additional unit of expense. "Carrot" management will be optimal when the reverse is true. At the fulcrum the output created by the addition of an extra negative unit will be equal to that created by the addition of an extra positive unit, where units of negative and positive incentives are measured in terms of their cost. Thus, in this situation the optimum management technique can be classified as "neutral".<sup>2</sup>

Historically many forms of positive and negative incentive were used in Australia.<sup>3</sup> Amongst the former, the most common were dietary supplements. The standard convict diet may have been nutritionally adequate in terms of the work undertaken, but would have certainly proved monotonous. Output could be increased by using tea, sugar and rum as added inducements to labour. There was also a range of special rewards available to convicts. Marriage, for example, was subject to permission, as was the granting of a 'Ticket of Leave', which enabled a convict to labour in the free market. These were carrots which had to be earned. Negative incentives included both the withdrawal of indulgences and a wide range of physical punishments. Actual resort to the lash, leg irons, stocks, tread wheels and solitary confinement, may have been less frequent than some historians have implied. It is without question, however, that

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<sup>1</sup> Fenoaltea, 'Slavery and Supervision', pp.637-643.

<sup>2</sup> Canarella and Tomaske, 'The Optimal Utilization of Slaves', p.626.

<sup>3</sup> Shaw, *Convicts & the Colonies*, p.220, Journal of Peter Harrison, p. 33, A.O.T. Hudspeth files, N.S. 690/23 and Diary of James Cubbiston Sutherland, October 23 1824, A.O.T. N61/1.

convicts quickly learnt that an unpleasant amount of physical abuse and humiliation would be the probable reward of certain actions (or inactions).<sup>1</sup>

As we have already seen in Van Diemen's Land, convict labour power was allocated to a range of private and public sector work locations. The number of convicts engaged at these sites varied from one to hundreds. Some jobs required specific skills, while others demanded only the supply of muscle power. Capital requirements varied from task to task, ranging from simple tools to complicated pieces of machinery (for example, water mills and ships). If, at each of these sites, output was optimized by balancing at the margin, one result would be a remarkable disparity in the conditions under which convicts laboured. There is some evidence to suggest that this was indeed the case.

Assignment took the form of a loan. Thus while the recipients of this labour power were termed "masters" and "mistresses", property rights in the services of convicts remained with the colonial government. Except in rare incidents, masters were not obliged to pay a "rent" for the labour power they borrowed. They were, however, bound by a set of government conditions. Masters had to supply the basic maintenance wage ( $W_e$ ) out of their own pocket. They did not have the authority to beat their convicts. Physical punishments were fixed by magistrates and implemented by publicly appointed officials. Yet, there was room for some latitude within these restraints. It was masters who made the decision to charge convicts with intentionally withholding their labour, or otherwise obstructing production. To this end free overseers could be hired and the threat of initiating disciplinary action kept ever-present. While the maintenance was fixed, masters could attempt to elicit productivity improvements by experimenting with different mixtures of top-up incentives. As the granting of tickets was dependent upon a master's report, convicts could be induced to bend their backs in order to gain a favourable recommendation.

As we have already noted the number of convicts located at individual private sector work locations was invariably small. Even on a large rural property, employing twenty or more convicts, separate work routines were employed for the bulk of the year. Many convicts were employed as shepherds and lived in stock huts far removed from the main estate buildings. Skilled craftsman and domestic servants were more centrally

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<sup>1</sup> Nicholas, 'The Care and Feeding of Convicts', pp.180-183, H.Gutman & R.Sutch, 'Sambo Makes Good, or Were Slaves Imbued with the Protestant Work Ethic?', in P.A.David et al, *Reckoning with Slavery* (Oxford University Press, New York 1976), pp.58-59 and Canarella and Tomaske, 'The Optimal Utilization of Slaves', p.627.

located, but there was immense variation in the nature of the work they undertook. Such diversification precluded the use of overtly negative sanctions as these tactics would incur prohibitive supervision costs. Some farm work, however, was carried out by larger teams of workers. These jobs tended to be seasonal, for example: shearing; harrowing; ploughing; reaping; mowing. Yet, even these tasks required a division of labour. A hub of skilled convicts performed the more care intensive work, assisted by less skilled workers, who washed and packed fleeces, or gathered and stacked hay. On larger agrarian units, where extra drafts of unfree labour were attainable for seasonal tasks, gang supervision and coercion may have been the preferred method of extracting labour from less skilled convicts.<sup>1</sup> It would appear, however, that for the bulk of the calendar, incentives were a more profitable method of eliciting labour from rural assignees.

Convicts who were assigned to other sectors of the economy were unlikely to experience such pronounced seasonal variations in the type of work they were required to undertake. It would appear, however, to be a reasonable assumption that, in common with their rural counterparts, urban employers were inclined towards the use of positive rather than negative incentives. Few commercial or industrial concerns can have employed enough convicts to operate a cost effective system of invigilation. Besides, many tasks were care intensive and/or susceptible to worker sabotage. There were exceptions. Labouring in one of the island's privately run quarries or, as a wharf hand on the quay at Hobart or Launceston, cannot have been much fun. It seems likely that private employers chose to run their operations along similar lines to the public sector where the gang and the overseer was the preferred method of organisation for these tasks.

Convicts knew only too well that private sector working conditions varied from property to property. Richard Bradstreet, a transported dock labourer, wrote to his parents in 1824,

I have been with a master now very near 2 years but he did not keep me well so I have got away from him at Last thank God and I hope that I shall do Better befor Long.<sup>2</sup>

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<sup>1</sup> Dependent on acreage and crop, private settlers were lent extra labour on a seasonal basis. These loan gangs were composed of non-essential public works convicts. McKay, 'The Assignment System', pp.177-178.

<sup>2</sup> A.O.T., Hudspeth files N.S. 690/9, Richard Bradstreet appears to have been assigned to John McLeod, a shipping merchant. It is distinctly possible, given his trade, that he was employed in a wharf gang. Richard Bradstreet, per *Phoenix* (1), No.528, A.O.T. Con.31.

James Cubbiston Sutherland, a Van Diemen's Land magistrate, recorded an exchange with one of his assigned servants in his diary.

I said I thought there was an abundance of time after 3 o'clock to wash his 3 shirts - He then complained that other settlers allowed every saturday afternoon (Mr Reid and others) to their men - but that I was different and he plainly saw the more he did for me the more unreasonable I was.<sup>1</sup>

While in the past, wide variations in the conditions experienced by assignees have been attributed to the brutish disposition of few sadistic masters, such simple explanations should be viewed with caution.<sup>2</sup> Examination of both the convict system and comparative fields tells a different story. As Michael Craton has demonstrated, the "callous master" thesis is incapable of explaining the wide disparity in working conditions experienced by slaves in the British West Indies. He independently arrives at the same conclusion as Findlay, Fenoaltea, Canarella and Tomaske. Slave conditions were "brutish" where work was labour intensive and "relatively benign" where production was more diversified.<sup>3</sup>

In Van Diemen's Land the rules and regulations governing assignment provided an added check against irrational private management practices. For, while the government punishment code was designed to assist settlers, breach of these regulations was considered a serious offence. Masters who physically mistreated their convicts risked having all assigned labour withdrawn. Benevolence also had an officially sanctioned limit. For example, one settler who invited his convicts to the family Christmas dinner was black-listed for being "over familiar" with his charges.<sup>4</sup> Recipients of convict labour were expected to work their assignees within the latitudes of an employment

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<sup>1</sup> Diary of James Cubbiston Sutherland, October 23 1824, A.O.T. N61/1.

<sup>2</sup> A.G.L.Shaw, *Convicts and the Colonies*, p.359; I.Brand, *Port Arthur, 1830-1870*, (Jason Publications, West Moonah, Tasmania, 1977) p.12 and I.Donnachie, "'Utterly Irreclaimable", *Scottish Convict Women and Australia, 1787-1852*', p.9. Hirst has sought to defend masters from this charge by claiming that "A good deal of the total punishment meted out was received by the incorrigibles". This is a common error and one which betrays a misunderstanding of the principle of balancing positive and negative sanctions at the margin. The subsequent chapter will explore this theme more fully. Hirst, *Convict Society and its Enemies*, pp.72 and 77.

<sup>3</sup> M.Craton, 'Hobbesian or Panglossian? The Two Extremes of Slave Conditions in the British Caribbean, 1783-1834', *William and Mary Quarterly*, 3rd. Ser., Vol.35 (1978) pp.324-356. See also R.S.Dunn, 'A Tale of Two Plantations: Slave Life at Mesopotamia in Jamaica and Mount Airy in Virginia, 1799 to 1828', *William and Mary Quarterly*, 3rd. Ser., Vol.34 (1977) pp.32-65.

<sup>4</sup> McKay, 'The Assignment System', pp.119-124.

code. This allowed for considerable variations in working conditions, yet discouraged techniques which were liable to prove counter-productive. Extreme benign or callous management was subject to punitive measure.<sup>1</sup> We can conclude that while working conditions for private sector convicts varied according to the nature of the work undertaken, the degree of variation was limited by the self-interest of masters and the controlling hand of the state. For, as Edward Curr superintendent of the Van Diemen's Land Company ventured, "it is not in the interests of the master to make his (the convict's) service a punishment, but rather to make the condition of the convict as comfortable as is consistent with economy".<sup>2</sup>

Almost all convict workers in the public sector were organised into gangs or teams. Generally speaking, teams were the preferred form of organisation for care-intensive work and gangs for effort-intensive. Both the theoretical literature and the historical evidence suggest that there was a wide disparity between team and gang working conditions. Team workers were selected on the basis of skill. As we have already seen, these convicts performed a wide range of functions vital to the maintenance of the convict system. They were given access to special privileges, such as: permission to earn a wage at the weekend; the freedom to lodge in the private sector and cash bonuses for completing government jobs.<sup>3</sup>

Labour gangs, on the other hand, were reserved for convicts who had encountered official displeasure. In Van Diemen's Land, the primary function of the gang was to provide muscle power, particularly for road construction. Work organisation was geared towards the use of negative sanctions. Capital inputs were low, the work was effort intensive and the numbers employed on one site relatively high. Gang size varied, but a ratio of one overseer to 40 convicts had become the basic unit of organisation by the mid-1830s.<sup>4</sup> To ensure that negative sanctions were adequately enforced, magistrates convened court on site, (in contrast with the private sector, where hearings were often far removed from the place of work).<sup>5</sup> This construct enabled punishments to be carried out in front of the whole gang. The public administration of physical discipline is a more powerful tool than a beating administered behind closed

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<sup>1</sup> For a similar discussion of the law and slave holding see E.Genovese, *Roll Jordan Roll: The World the Slaves Made*, (Pantheon Books, New York, 1974) pp.41 and 72-73.

<sup>2</sup> As quoted in Shaw, *Convicts and the Colonies*, p.220.

<sup>3</sup> *Convicts and Carriageways: Tasmanian Road Development until 1880*, (Department of Main Roads, Tasmania, 1988) p.132.

<sup>4</sup> Nicholas, 'The Organisation of Public Work', p.159 and *Convicts and Carriageways*, p.134.

<sup>5</sup> P.MacFie, 'Dobbers & Cobbers: Informers and Mateship Among Convicts, Officials and Settlers on the Grass Tree Hill Road, Richmond, Tasmania', (Author's manuscript).

doors.<sup>1</sup> Convicts knew that the triangle and the ironed party were never far removed from the labour gang.

While the heavy use of negative sanctions was suited to this type of work construct, the choice of labour was less efficient. As West reported,

It did not infrequently happen that a tailor or other sedentary craftsman was sentenced to the roads, but in breaking stones there is an art and while the dexterous could make every blow effective, the utmost toil of the novice left a deficiency in the task. To admit excuse would have disturbed the calculations of labour, and the defaulter was delivered at once to the flogger.<sup>2</sup>

The majority of convicts in road parties were worked below their potential skill capacity and/or at tasks of which they had little knowledge. Those not sent to the gang direct from the ship were removed from other work locations within the system and it was inevitable that this would cause a high degree of dislocation. Road parties also relied heavily on the use of leg irons. Whereas the selective use of punishment was a necessary adjunct to efficient labour extraction, irons must have considerably restricted worker output. This heavy reliance on such an inefficient form of work organisation was certainly counter-productive.<sup>3</sup>

## V

In conclusion, while *Convict Workers* has provided a valuable re-assessment of a major aspect of Australia's white history, the evidence from Van Diemen's Land suggests that the convict system was much more than a mechanism for efficiently exploiting unfree labour. This is not to deny that the latter was not an important objective of British policy. Indeed, the rationale of transportation was that: (i) it was cheaper than other penal options; (ii) that it should produce tangible benefits for the British state, in terms of colonial growth. The more recent literature supports the *Convict Workers* assessment that these objectives were fulfilled. Yet, in a very real sense, these aspects of transportation were only the medium through which British penal policy was implemented. Whereas other unfree labour systems strive to balance positive and negative incentives at the margin, penal objectives contorted the rationale

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<sup>1</sup> Gutman and Sutch, 'Sambo Makes Good', pp.58-59

<sup>2</sup> *Convicts and Carriageways*, p.133.

<sup>3</sup> *Convicts and Carriageways*, p.134.

which lay behind the organisation of the work process. Thus, the wider ambit of convict management incorporated practices which were unlikely to occur in other economies. These included: the ironing of a significant proportion of the workforce, a technique which restricted rather than increased output; the widespread demotion of workers from skilled to less skilled tasks and from the mid-1830s onwards, the introduction of solitary cells and treadwheels. Punishment and economic exploitation are not directly compatible and the introduction of the former added a further degree of complexity to the manner in which the convict system was organised. Clearly an understanding of these themes can only be achieved through an in depth study of the day to day operation of the convict system.



John Gregory, a sawyer and carpenter from Shropshire was tried at Salop Assizes in March 1821 for stealing cows. Transported to Van Diemen's Land for 14 years per *Lord Hungerford* he was again tried for bushranging at the Supreme Court in April 1826 and executed the following month.

Lithograph by the convict artist Thomas Bock. Reproduced by kind permission of the State Library of Tasmania.





James McCabe, a boatman from Dublin, was transported for seven years for stealing a cotton table cloth. He arrived in New South Wales in 1817 per the *Almorah* but was transferred to Van Diemen's Land in 1820 per the *Woodlark*. On 5 November 1825 he was found guilty of bushranging, sentenced to hang and executed the following January. "He did not betray the smallest fear of death." *Colonial Times*, 6 January 1826.

Lithograph by the convict artist Thomas Bock. Reproduced by permission of the State Library of Tasmania.



A Chain gang on the roads in the early 1830s. Reproduced from J. Backhouse, *A Narrative of a Visit to the Australian Colonies* (Hamilton and Adams, London, 1843) by kind permission of the National Library of Scotland.

## Chapter 4

### **Reckoning with Convict Workers: Management Strategies and Convict Responses.<sup>1</sup>**

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<sup>1</sup> With apologies to P.A.David *et al*, authors of *Reckoning with Slavery: A Critical Study in the Quantitative History of American Negro Slavery* (Oxford University Press, New York, 1976)

Convicts, like other unfree workers, were kept in line through the enforcement of a legal code designed specifically to suit the needs of the convict system. However, this code functioned as a part of a wider, interdependent ideology of paternalism which stressed the divisions between bond and free, especially in the work place.<sup>1</sup> Post 1788, additions and alterations to the mechanics of convict management worked through the state as the process of extracting labour from convicts was organized publicly, rather than privately. By the early 1820s the convict system had developed into a complex centrally administered organisation. The forces which fuelled this process were both internal, convicts "testing the chains", and external, changing perceptions of the role that a penal policy should perform. Over time, increasing importance was placed on the second of these considerations. The result of this shift in emphasis was that the convict administrators were saddled with two functions. On the one hand, they administered an unfree labour system, and on the other, they attempted to square the management of their indentured work force with the goals of punishment and reformation. For much of the period this duality is illustrated in the organisation of the convict department record books.

The alphabetical register of convicts includes information on the trade, age and health of each transportee, the basic data required for an efficient allocation of labour. The date of conviction and sentence, was also included so that the period of servitude could be calculated. Finally there is a full physical description of each convict including tattoos, scars, deformities and native place (therefore accent). If a convict absconded from his or her place of work this description was posted in the *Government Gazette*. These registers enabled the state to put its human resources to work effectively and keep them there.<sup>2</sup>

The description records make no mention of a convict's conduct or past criminal activity. All these details were separately registered in what were euphemistically called "the Black Books". The entry for each convict was divided into two parts. The first

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<sup>1</sup> Some of these mechanisms of control were extramural. The role that the churches played in locating and cementing the convict population within a moral hierarchy, is particularly fascinating but beyond the scope of this study.

<sup>2</sup> A.O.T., Con.23, 'Alphabetical Register of Male Convicts 1804-39'. P.R.Eldershaw, 'Convict Department', *Guide to the Public Records of Tasmania*, Section 3 (State Library of Tasmania, Hobart, 1965) p.25. Unfortunately the equivalent register for female convicts is no longer extant.

section details the convicts progression from court to embarkation. The transportable offence is listed together with a short gaol report including details of "character", previous convictions and finally, a hulk report giving a brief description of behaviour. Before disembarkation a confession was elicited from each convict and extracts from this were also included. The second section consists almost exclusively of offences committed in the colony. These are laid out in a set format: date of hearing; employment location (place for government convicts, master or mistress for assignees); charge; verdict and magistrate. Verdicts from higher courts were recorded in the margin.<sup>1</sup> Other information included details of death, emancipation and ticket of leave. A note of successful absconders was also made thus, "run". The only duplication between the two sets of records were: name, police number, ship and date of original conviction (the criteria by which the registers were indexed); and details of a convict's career which effected his or her work status (for example, sentence extension and emancipation). After 1839, both sets of records were incorporated in the one register to mark the advent of the probation system.<sup>2</sup>

The documentation which records each convict's progress through the system reflects the complex relationship between the state, private employers and the convicts themselves. It is within this three dimensional framework that the records of the Van Diemen's Land bushrangers will be examined. Section one of this chapter is devoted to a brief quantification of the data pertaining to bushrangers collected over the course of this research. Section two will examine the relationship between punishment and labour extraction within the transportation system. Section three collates the data in the offence registers and provides an interpretation of the interaction between convicts, managers and private employers.

## I

The colonial offences recorded for this group of convict workers are not necessarily representative of those committed by the wider population. However, the information recorded in arrival registers indicates that as a group they displayed the same range of characteristics as that of male transportees in general. Where the bushrangers-to-be did

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<sup>1</sup> A.O.T., Con.31, 'Conduct Registers of Male Convict Arriving in the Period of the Assignment System 1803-43', Con.32, 'Supplementary Conduct Registers' and Con.40, 'Conduct Registers of Female Convict Arriving in the Period of the Assignment System 1803-43'. Eldershaw, 'Convict Department', pp.29-30, and 33.

<sup>2</sup> A.O.T., Con.33, 'Conduct Registers of Male Convicts Arriving in the Period of the Probation System 1840-53'; Con.41, 'Conduct Registers of Female Convicts Arriving in the Period of the Probation System' and Eldershaw, 'Convict Department', pp.31-33.

depart from the profile of transportees detailed in the literature, the divergence emphasized, rather than diminished, their potential utility as unfree workers.<sup>1</sup>

Unfortunately 44 of the Van Diemen's Land convict bushrangers arrived before the systematic recording of offence data. A further two could not be located in the convict department records and 33 appear to have committed no offences before running under arms. This chapter is based upon the 1703 entries recorded for the remaining 230 individuals spanning the period 1817-1846. While the majority of these offences were committed in Van Diemen's Land this was not exclusively so. In the later period, information relating to the service of convicts in other Australian colonies was inserted into the Van Diemen's Land registers. Some inter-colonial transfers were found amongst the bushrangers. In all 73 of the offences included in this study were committed in New South Wales and 17 on Norfolk Island. The number of offences recorded for each level of the Van Diemen's Land system were: free by servitude, 21; ticket of leave, 24; assigned, on loan or hired, 331; Public works classes one and two, 416; road parties, 144; probation stations (1839-1846 only), 117; ironed gangs, 134; penal settlements, 350 and hospital, 2. The remaining 74 were committed in unspecified locations. The bulk of the latter date from the period 1817-1825 and were compiled retrospectively from other documents. Unfortunately the location of employment was not always entered. Finally, no data was collected for the period after capture. Although many bushrangers were executed or shot in action, others went on to record further offences, predominantly in penal stations. It was felt that this information was of limited worth in the light current investigation.

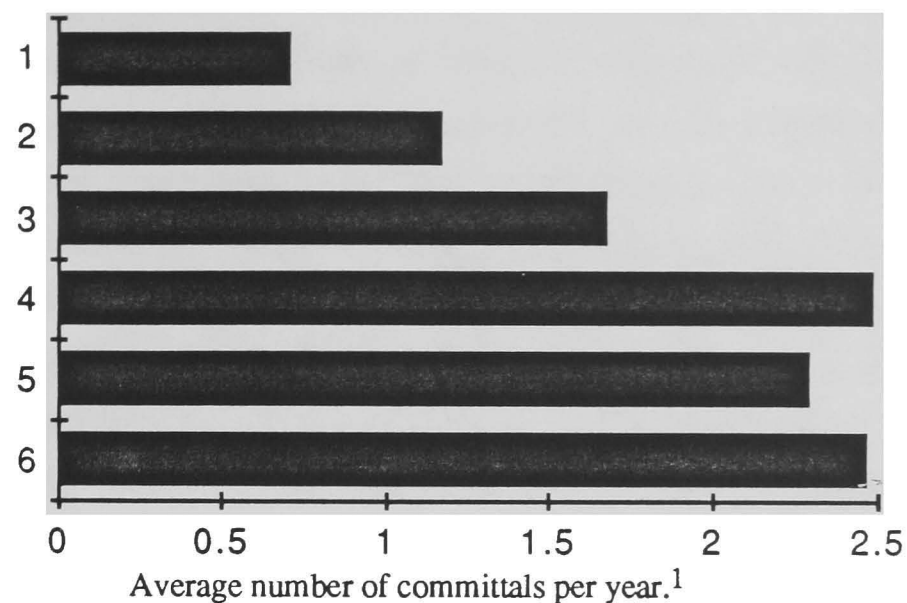
## II

Before discussing some of the more complex aspects of these returns some broad observations can be made. First, a general breakdown of offences by location provides support for the theoretical approach adopted in the previous chapter. It can be seen from Fig.4.1 that the frequency with which convicts were arraigned before a magistrate or a higher court increased as they were removed to the lower levels of the system. As

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<sup>1</sup> In particular, it was discovered that the future bushranger tended to be younger and more likely to be transported for life than his fellow convicts. While their average age was only 22 on disembarkation it was discovered that there was considerable bunching between the years 17 and 24. Few bushrangers were under 16 or over thirty on arrival in Australia. Indeed the majority were in the current maximum score range for prospective migrants to Australia. The most poignant observation that can be made about sentence is that it fixed the length of service. The longer the convict remained under servitude the longer the state could exploit him or her through the substitution of a maintenance for a wage. This is why "a fourteen year man" sold for more than a "seven" in colonial America. While the sample is small, it is argued that it is not exceptional.

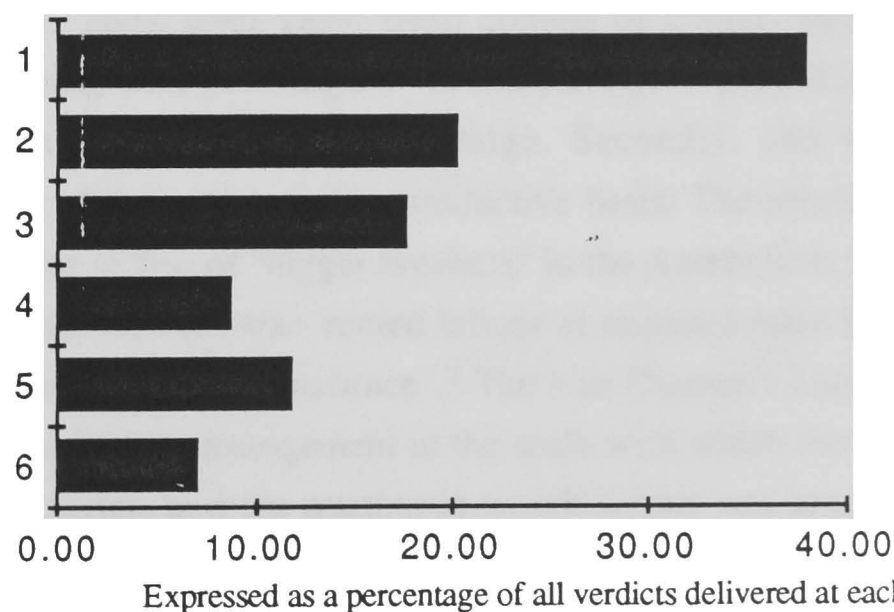
**Fig.4.1 Frequency of arraignments at each level of the Van Diemen's Land Convict System.**



1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.  
Sources: A.O.T. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

<sup>1</sup> The frequency of arraignments at each level of the system was calculated on the basis of an estimate of the time each convict spent at various locations. The information employed in this calculation was the date of each court appearance, the location of current employment, the location sentenced to and the length of sentence. It should be noted that these results are open to bias. Whereas the date and length of downward movements were invariably recorded, corresponding data for promotions was rarely extant. Convicts who committed an offence while occupying a higher level than that recorded in the previous offence were assumed to have been so employed since the expiration of the immediately proceeding sentence. However, as some convicts were undoubtedly rewarded for good behaviour and received early promotion it is felt that the the total period of service calculated for punishment tiers is an over estimate. If this view is correct, the frequency of arraignments in levels 4,5 and 6 may well have been greater than that depicted. The opposite would be true for levels 1,2 and 3.

**Fig.4.2 Proportion of committals which received a discharge or a reprimand as opposed to a form of punishment.**



1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.  
Sources: A.O.T. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43



discussed above, labour had to be elicited from convicts through an appropriate mix of positive and negative incentives. Most work in the private sector and in the top grades of public service<sup>1</sup> required a low ratio of worker to task, high capital inputs and, often though not always, a skilled labour component. It was suggested that the most profitable manner of organizing this type of work construct was to rely on indulgences as opposed to coercion. On the other hand it was demonstrated that the opposite was true of gang labour employed in the performance of manual tasks. It was suggested that convict managers reserved work that was compatible with the use of negative incentives for convicts sentenced to further punishment. The higher rate of arraignments for prisoners engaged in labour that was primarily organized around a gang system demonstrates the effectiveness of group supervision. As Steve Nicholas states, the gang was an efficient means of forcing workers to provide more labour than they were prepared to deliver voluntarily.<sup>2</sup> Yet, while agreeing that the road gang was not merely a device for providing punishment, it is asserted that it was extensively and effectively used to fulfil this function. These general conclusions are endorsed by an analysis of the rate at which arraignments were followed by conviction and punishment. Warnings and the benefit of the doubt were administered to convicts in the first three grades of the system at a greater rate than they were to those in punishment gangs and penal stations (see Fig.4.2).

By structuring punishment around the work process the convict managers achieved a number of notable objectives. First, they could deny that colonial servitude was a lottery, as the worst tasks were reserved for convicts who had been processed by the magistrates bench. Thus, until 1839, fresh cohorts of labour, and convicts thought worthy of indulgence, were generally, if not exclusively, employed in jobs where work extraction techniques were relatively benign. Secondly, and very importantly, punishment could be delivered upon a productive basis. The role of the labour gang was in effect similar to that of "nigger breakers" in the Antebellum South. These were typically poor white farmers who rented labour at minimal rates from planters who wanted their slaves cured of "impudence".<sup>3</sup> The Van Diemen's Land system differed, however, from this private arrangement in the scale with which the work process was used to "break" convicts and the manner in which labour was graded by degrees. In 1834 for example: 1,609 convicts, or 14.1 percent of the total male convict population,

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<sup>1</sup> That is, public works convicts classes one and two.

<sup>2</sup> S.Nicholas, 'The Organisation of Public Work', in S.Nicholas (ed.) *Convict Workers*, (Cambridge University Press, Sydney, 1988) pp.152-153.

<sup>3</sup> E.D.Genovese, *Roll Jordan Roll: The World the Slaves Made*, (Pantheon Books, New York, 1974) p.22.



were employed in road gangs; 720, or 6.3 percent, were in iron gangs and a further 790, or 6.9 percent, were stationed on the Tasman Peninsula.<sup>1</sup> Thus, between October and December of that year approximately one in every four male convicts underwent some form of work orientated punishment.<sup>2</sup>

While the contributors to *Convict Workers* have stressed the efficiency of gang labour, it is apparent that the reliance placed on the delivery of punishment through the performance of work impaired the efficiency of other aspects of the convict system. One cannot but be struck by the internal mobility of the convicts within the data set.<sup>3</sup> Many prisoners appear to have experienced all levels of the system, sometimes in relatively short spaces of time. It is evident that this caused wide spread dislocation in the top echelons of work organisation. The considerable care which was initially exercised in matching appropriate skills to job openings was severely compromised by the rate at which convicts were demoted to the lower levels. Convicts placed in road gangs were frequently removed from productive locations and employed below their potential skill capacity. There is no doubt that this aspect of work orientated punishment entailed a considerable squandering of human resources. Yet, there is evidence that the convict managers were alert to the problem. While largely ignored by the conventional histories, it is apparent that there were greater employment opportunities for demoted convicts than is suggested by the literature's over-emphasis on manual, physically demanding tasks.

To borrow David Neal's phrase, the manner in which the convict system operated was akin to a series of "chinese boxes".<sup>4</sup> The metaphor is appropriate insofar as each organisational level housed a separate class of convict. Yet, while this stratification formed the basis upon which the management of convict workers was structured, there was considerable diversity of production within each box. The evidence which points

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<sup>1</sup> This figure excludes 161 boys transferred to the Juvenile establishment of Point Puer founded in January 1834, I.Brand, *Port Arthur 1830-1877*, (Jason Publications, West Moonah, Tasmania, 1975) p.52 and R.Hughes, *The Fatal Shore*, (Pan Books, London, 1988) p.409.

<sup>2</sup> Data for road and ironed gangs was recorded on the 20 September 1834 and is as listed in, Department of Main Roads, *Convicts and Carriageways: Tasmanian Road Development until 1880*, (T.S.G., Hobart, 1988) p.134. Data for the Tasman Peninsular and the total male convict population was recorded 31 December 1834, A.O.T., C.S.O. 50/9.

<sup>3</sup> Between date of arrival and commencement of bushranging activity four percent of convicts in the data set experienced a term of freedom by servitude; 5 percent held tickets of leave; 52 percent had at one time or another been assigned; 50 percent had laboured on the public works in service grades one or two; 22 percent spent time in a road gang; 21 percent in a chain gangs and 20 percent in a penal station. In total, forty-nine percent of subjects committed offences while employed in a punishment gang of one description or another.

<sup>4</sup> D.Neal, 'Free Society, Penal Colony, Slave Society, Prison?', *Historical Studies*, Vol.22, No.89, (1987) p.512.

in this direction has generally received scant attention from both contemporary observers and subsequent commentators. In particular the horrors of penal station life, with its emphasis on virtual incarceration, frequent and savage punishment and incessant and mindless toil, has been a recurring theme of the literature.<sup>1</sup>

An alternative account of the organisation of production in penal stations is provided by Thomas Lempriere. Lempriere served as Commissariat Officer at Macquarie Harbour, Maria Island and Port Arthur in the 1820s and 30s. He recorded details of all three settlements which provide insights into the organisation of secondarily convicted labour which are at odds with the established literature. According to his account of conditions at Macquarie Harbour, the principal labour did indeed consist of the demanding task of felling and transporting timber to the main settlement on Sarah Island. Yet, only a proportion of the convicts were engaged in this work. In addition there were at least two boat crews, a blacksmith's shop, a lumber yard, a ship yard, a shoemakers' and tailors' establishment, a tannery, a piggery, a garden and a bake house equipped with a mill. Other convicts were employed in the Commissariat Store as porters and clerks and as carpenters and masons on building projects. It is difficult to establish what proportion of the convicts were reserved for these tasks. Lempriere does tell us, however, that between 36 and 38 men were employed in the ship yard. As the total number of convicts stationed at Macquarie Harbour never exceeded 370 at any given point, this accounts for ten percent of the workforce alone. Thus, in the level of the convict system which was geared more than any other to overt coercion, projects were initiated which required an entirely different deployment of management techniques. Ship building in particular, with its reliance on specialized workers, high inputs of capital and a low worker to task ratio, suggests that some aspects of life in penal stations were characterised by relatively benign management. While it is impossible to make an overall calculation of the proportion of convicts reserved for such skilled tasks, it is difficult to imagine that anything less than twenty percent of the total labour supply at Macquarie Harbour was employed on Sarah Island in production or maintenance units.<sup>2</sup>

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<sup>1</sup> J.Reynolds, 'The Penal Stations of New South Wales and Van Diemen's Land: The Reality Behind the legend, *J.R.A.H.S.*, Vol.67, pt.4 (1982) pp.354-363. For examples see G.Loveless, *Victims of Wiggery*, (Central Dorchester Committee, London, 1838) reprint (Communist Party of Great Britain, London, 1969), p.22 (Loveless never served at a penal station); M.Clarke, *For the Term of his Natural Life*, ((Melbourne, 1870) reprint (Australian Print Group, Hobart, 1988) *passim*; C.Smith, *Shadow Over Tasmania*, (Walch, Hobart, 1941) p.37. J.B.Hirst, *Convict Society and its Enemies*, (Allen and Unwin, Sydney, 1983) p.65 and Hughes, *The Fatal Shore*, pp.371-380.

<sup>2</sup> T.L.Lempriere, *The Penal Settlements of Van Diemen's Land*, (1839) Reprint (Royal Society of Tasmania, Launceston, 1954) pp.27-51.

According to Lempriere the less severe penal settlement on Maria Island had, if anything, a greater diversity of production. Again the majority of convicts were engaged in the felling of timber, a task, which as at Macquarie Harbour, some prisoners had to perform in irons. Yet the island also possessed a pottery, brickfields, a cloth manufactory and a mechanised felling house.<sup>1</sup> There also appears to have been a tannery and a shoemaker's establishment as the settlement turned out four thousand shoes a year. There was also a store, a blacksmiths' shop, a bake house and a boat crew. Yet, the maximum number of convicts ever employed at Maria Island was a mere 170. Lempriere considered that convicts were allowed "great latitude" at this settlement.<sup>2</sup> In particular he singled out the allocation of garden plots. Convicts, in contradiction to the standard accounts of penal settlements, were permitted to supplement their diet through the productive use of their own time.<sup>3</sup>

Lempriere's account of one of the other supposed "hell holes" of Van Diemen's Land provides yet another insight into the working conditions of secondarily convicted labour. Historians have assumed that the coal mines at Plunkett Point provided the hardest labouring conditions on the Tasman Peninsula. Hughes asks the question, "What more chastening form of extra punishment than to turn convicts into miners, condemned to hard labor, darkness, extreme confinement and hourly fear of cave-ins?".<sup>4</sup> Yet, there is no evidence that secondarily convicted convicts who lacked appropriate training were ever expected to cut coal. Writing of the late 1830s, Lempriere details that of twenty-nine colliers at Plunkett Point, twenty-seven were public works men not under a second sentence. In other words, these were convicts with appropriate skills who had been detailed, as opposed to sentenced, to the site. In all, of the 123 prisoners nominally located at Port Arthur but actually employed in the mining operation, two (1.6 percent) were miners by trade and were employed cutting coal. Of the remainder, eighteen (14.6 percent) were employed as blacksmiths, carpenters and masons. A further thirty-six (29.2 percent) worked as woodcutters, signalmen or servants to overseers, superintendents and other officials. It was the remaining sixty-seven (54.4 percent) performing low skilled tasks organised on a gang basis that more properly fit the description of penal working conditions prevalent in the literature. Yet, even with this category of labour, it is important not to exaggerate the negative aspects of the work undertaken. Although some worked underground hauling coal, many others were employed as surface workers where they manned pumps and

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<sup>1</sup> Power was supplied to the later by a reservoir and race. Lempriere, *The Penal Settlements*, pp.53-57.

<sup>2</sup> Lempriere, *The Penal Settlements*, pp.53-57.

<sup>3</sup> No evidence could be found that this practise was extended to other penal settlements.

<sup>4</sup> Hughes, *The Fatal Shore*, p.407, see also Reynolds, 'The Penal Stations' p.362.

shaft winches and pushed the coal cars down a tramway to the shipping jetty.<sup>1</sup> It was the gang organisation rather than the physical aspects of the work which enabled the convict managers to make this kind of task an effective punishment.

This was also true of the main settlement at Port Arthur. Fresh arrivals were required to labour for a third of their sentence to the settlement in the timber gang.<sup>2</sup> Convicts were split into units under the charge of an overseer and were employed carrying timber from the felling sites to the saw-pits or shingles and sawn timber to the lumber yard.<sup>3</sup> On the expiration of this period they were detailed to other operations according to skill, or in the case of the unskilled retrained according to demand. As a further punishment they could be broken back down into the timber detail and if necessary placed at the aforesaid labour in one of the three ironed gangs. As with other penal locations, the internal demand for skilled labour was considerable. Port Arthur possessed the normal array of bake houses, kitchens, painters', carpenters', wheelwrights', coopers', tailors', shoemakers', tinmens' and blacksmiths' shops. Since the main operation was based around the peninsula's timber resources there were also felling, as opposed to hauling gangs, and several teams of sawyers. In addition, the settlement possessed a ship yard, several boat crews, a choir, a clerks' office and book binders' shop. By the early 1840s a tannery had been established and from the early days of the settlement there was a brick works, later expanded to produce roofing and gutter tiles, flower pots and other such items. To cut the cost of supplying the settlement, vegetables, meat and dairy products were produced locally. The supply of local livestock entailed the further establishment of a slaughter house at King George Sound. Finally additional employment for Port Arthur convicts was found in the juvenile settlement at Point Puer, where they taught trades, and worked as servants to the civil officers.<sup>4</sup>

Work in road and ironed parties was organised on a similar basis. Most convicts spent a period of time in the main gang. Thereafter, according to conduct and/or skill, they could expect promotion to an ancillary task where the degree of supervision was relaxed and more reliance was placed on positive, as opposed to negative, incentives.<sup>5</sup>

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<sup>1</sup> Lempriere, *The Penal Settlements*, pp.78-80.

<sup>2</sup> L.Miller, *Notes of an Exile to Van Diemen's Land*, (Fredonia, New York, 1846) reprint (S.R.Publishers, New York, 1968) pp. 328-329 and B.Evans (ed.) *Regulations for the Penal Settlement at Port Arthur*, (Hawthorn Press, Melbourne, 1966) p.17.

<sup>3</sup> M.Cash, *Martin Cash the Bushranger of Van Diemen's Land in 1843*, (Walch, Hobart, n.d.) p.58.

<sup>4</sup> Lempriere, *The Penal Settlements*, pp.108-110 and Brand, *Port Arthur*, pp.29-35 and 52-54.

<sup>5</sup> See for example the experience of John Mortlock. According to the latter's own account he was removed to a road party in the mid-1840s for absconding where he laboured for four weeks carting stone from a quarry to a bridge construction site. After this period he was promoted to cook for a felling party employed in a valley away from direct supervision. J.Mortlock, *Experience of a Convict Transported*

Some skilled convicts avoided the gang altogether. The phrase "but to be kept at his trade" was not infrequently entered as a postscript to a road gang sentence. Thus, two observations can be made. First, considerable attempts were made to limit the extent of the occupational dislocation engendered by the internal movement of offenders. Secondly, a subsidiary aim of pursuing punishment through the work place was that it provided the convict managers with an opportunity to retrain low skilled workers.

The system also provided jobs for convicts at an administrative level. While men employed in all categories of labour could be promoted to the "offices" of overseer, constable, watchman and messenger, recruits for some posts appear to have been disproportionately drawn from the punishment tiers. In the mid-1830s convicts in road parties were, in theory, divided into gangs of forty. This unit was then further subdivided into four messes, with one convict from each mess selected as sub-overseer. Based on the data for September 1834, and the assumption that the majority of overseers were convicts, there would have been 39 gangs and a corresponding number of overseers. Sub-overseers would have numbered 156. Thus, just over 12 percent of the convicts in this category of labour would have held some position of authority.<sup>1</sup> Another "office" associated with gang labour was that of watchman. The American convict, Linus Miller, was promoted to this post while serving at the Brown's River Road Station in the early 1840s. He later recounted that the job was "an agreeable change". His duty consisted of standing guard over the barrack hut at night, during the day he could sleep, or not, as he saw fit.<sup>2</sup> It is apparent that in addition to those employed in maintenance and production teams (as opposed to the main gang) a surprisingly large proportion of convicts held offices which either exempted them from manual labour and/or gave them access to an incentive "salary". This was usually paid in tea, sugar and tobacco, but for the senior positions of constable and overseer cash payments were common. In all, just over eleven percent of the convicts in the data set occupied junior administrative positions at one time or another. While the dearth of

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*for Twenty-one Years*, (London, 1864-5,) reprint G.Wilkes and A.Mitchell (eds.), (Sydney University Press, London, 1965) p.113.

<sup>1</sup> This figure should be taken as a yard stick only. The returns for individual road parties reveal that none divide neatly into forty block units, (although Constitution Hill with 241 convicts comes close). Indeed two parties had fewer than twenty convicts, Jerusalem, 15 and Bothwell, 17. This suggests that the actual unit of organisation was a lot more flexible than that inferred by the Convict Department guide lines. One factor which reduced gang size was sickness and injury. The returns show that 185 convicts, (presumably drawn from several gangs) were convalescing in the Invalid Party at Green Point. The proportion of convicts who held the post of watchman is unknown. All references and data from, *Convicts and Carriageways*, p.134.

<sup>2</sup> Miller, *Notes of an Exile*, p.287.

comparative studies make it impossible to evaluate the exact significance of this finding it is apparent that the holding of an "office" was far from an exceptional occurrence.<sup>1</sup>

One of the crucial aspects of this system of enforcing discipline through promotion and demotion was that it placed the convict wage (the ration) on a sliding scale. Table 4.1 lists various rations paid throughout the convict system. The reduction of incentive payments restricted both the range of items included in the ration and the calorific value. In the 1820s the difference between an assigned servant's diet and a convict in a penal station gang was approximately a thousand calories a day.<sup>2</sup> Nevertheless, the data supports Hirst's view that convicts were better fed than the English working population.<sup>3</sup> The ration for the Macquarie Harbour gang, even on the lower bound estimate, compares favourably with dietary returns for late nineteenth century British workers.<sup>4</sup> The data also places a further question mark over the nature of the work undertaken in penal settlements. The punishment gang at Macquarie Harbour worked a 57 hour week on between 20,692 and 21,588 calories. Using the data supplied by Steve Nicholas and Richard Sutch, the remaining 111 hours of sleep, rest and light work would have consumed about 9324 calories at 1.4 per minute, thus leaving between 11368 and 12264 calories a week for gang labour, enough for only 19 - 20 hours very heavy labour (calculated at 10 calories a minute). As Steve Nicholas says, it is much more likely that bouts of heavy or very heavy labour such as dragging and landing logs were interspersed with periods of lighter work.<sup>5</sup> For this type of work schedule the diet may well have proved monotonous but was probably just sufficient, a conclusion supported by the testimony of John Mortlock who was transferred from Norfolk Island to a Tasman Peninsula timber gang in the early 1840s. He later recalled "...carrying bundles of shingles...some miles, through the rugged bush down to the

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<sup>1</sup> It is not precisely clear what position the term "overseer" refers to. When a convict was entered in the conduct register as "overseer" was this a blanket title which covered both positions? While the evidence is far from comprehensive, no overseer in the data set was charged with an offence which referred to a "mess". There were many examples, however, which referred to "his gang". It would appear that there were so many sub-overseers that details of this position were not entered onto a convict's conduct sheet. This assumption is supported by entries which end "to be deprived of his indulgence" and are unaccompanied by a corresponding reference to a position of authority.

<sup>2</sup> In the 1830s the difference in the calorific value of rations was less, approximately 500 calories a day difference between public sector class 1 convicts and road gangs.

<sup>3</sup> Hirst, *Convict Society and its Enemies*, p.39.

<sup>4</sup> D.J.Oddy, 'Working Class Diets in Late Nineteenth-Century Britain', *Economic History Review*, Vol.23 (1970), 314-325. Indeed the lower bound estimate for Macquarie Harbour was higher than the estimate for the Glasgow unemployed diet (1921-2), 2440 calories, and perhaps surprisingly Stirlingshire miners (1924), 2910, T.C.Smout, *A Century of the Scottish People, 1830-1950*, (Collins, London, 1986) p.129.

<sup>5</sup> S.Nicholas, 'Care and Feeding of Convicts', *Convict Workers*, p.185; P.David, *Reckoning With Slavery*, pp.265-268 and T.L.Lempriere, *The Penal Settlements of Van Diemen's Land*, (1839) Reprint (Royal Society of Tasmania, Launceston, 1954) p.48.

Table 4.1 Convict rations for various locations.

	<i>Standard Ration N.S.W.</i>	<i>Assigned Servant (Example)</i>	<i>Colliers Plunkett Point</i>	<i>Road &amp; Iron Gangs</i>	<i>Port Arthur Gangs</i>	<i>Macquarie Harbour Gangs</i>
	Per Week 1	Per Day 2	Per Day 3	Per Day 4	Per Day 5	Per Day 6
<i>Flour</i> <sup>1</sup>	7 lbs	1 lb 6 oz	1 lb 12 oz	1 lb 12 oz	1 lb 12 oz	1 lb 4 oz
<i>Meat</i>	7 lbs	1 lb 7 oz	12 oz <sup>2</sup>	12 oz <sup>3</sup>	12 oz <sup>4</sup>	1 lb <sup>5</sup>
<i>Vegetables</i>	None	?	None	8 oz	None	None
<i>Salt</i>	8 oz	?	0.25 oz	0.5 oz	0.25 oz	1.5 oz
<i>Soap</i>	?	Yes	0.5 oz	0.5 oz	0.5 oz	?
<i>Tea</i>	4 oz	Yes	0.5 oz	None	None	None
<i>Sugar</i>	1 lb	Yes	2.5 oz	None	None	None
<i>Tobacco</i>	None	?	0.5 oz	None	None	None
<i>Potatoes</i>	None	Yes	8 oz	None	8 oz <sup>6</sup>	None
<i>Maize</i>	3 lbs	None	None	None	None	None
<i>Calories (Daily)</i>						
<i>Minimum</i>	3192	4054	3977	3348	3372	2956
<i>Maximum</i>	3919	4353	4132	3684	3844	3084

## Sources:

1. S.Nicholas, 'The Care and Feeding of Convicts', S.Nicholas (ed.), *Convict Workers*, p.184.
2. Diary of James Cubbiston Sutherland, October 23 1824, *A.O.T.*, N./61.
- 3,4 & 5. *Hobart Town Courier*, June 29 1838.
6. T.J.Lempriere, *The Penal Settlements of Van Diemen's Land*, (Manuscript 1839), published (Royal Society of Tasmania, Launceston, 1954) p.48.

Daily calorie estimate for 1 from Nicholas, 'Care and Feeding of Convicts', p.184. 2 - 6 calculated from A.A. Paul and D.A.T. Southgate, *McCane and Widdowson's The Composition of Foods* (4th. edition, Medical Research Council Special Report No.297, H.M.S.O., London, 1978). Note: Tea, sugar and potato values for 2 were calculated using data for 3. All vegetables were assumed to be cabbage and turnips<sup>7</sup> and the method of cooking for all foods boiling. All meat values were calculated as weight without bone and poorest quality cuts were selected in all case. All pork values were read as salted.

<sup>1</sup> Flour supplied to the commissariat was supposed to contain 12 percent bran, *Hobart Town Courier*, June 29 1838.

<sup>2</sup> Or 8 oz. pork.

<sup>3</sup> Ditto.

<sup>4</sup> Ditto.

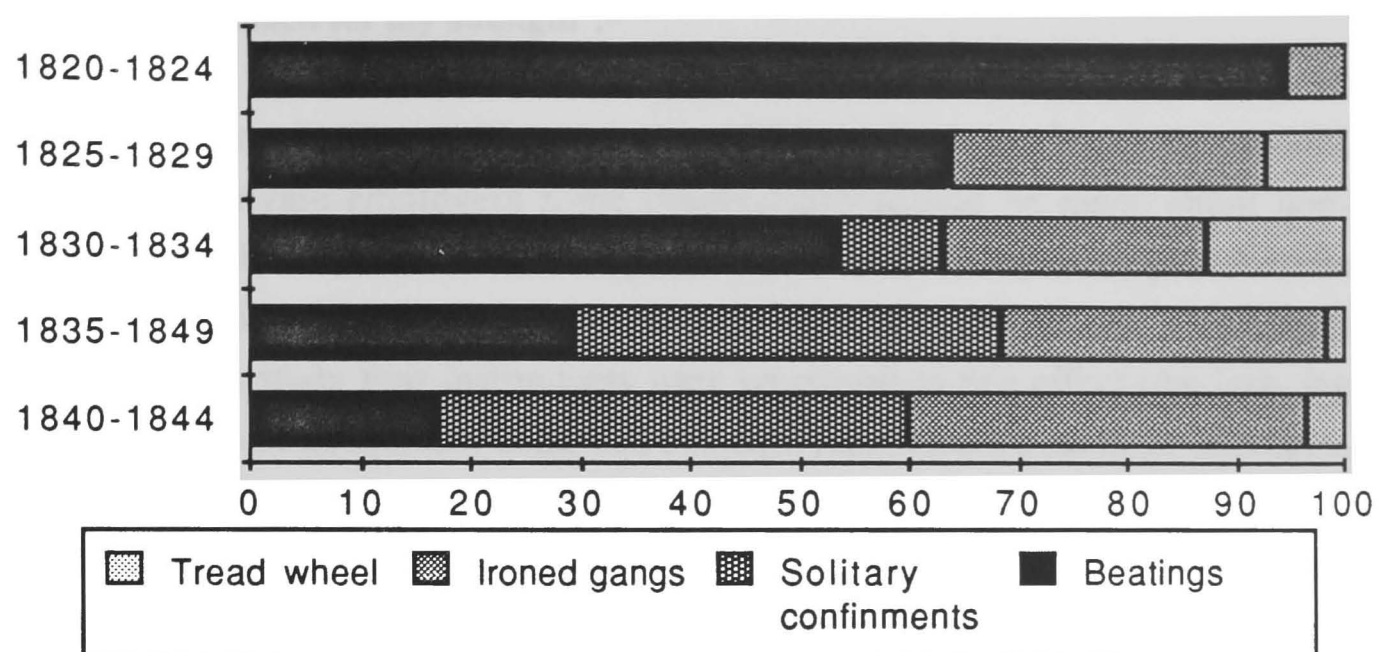
<sup>5</sup> Or 10 oz. salt pork.

<sup>6</sup> Or 1 lb. vegetables.

<sup>7</sup> As described by Martin Cash, per *Marquis of Huntley*, (NSW) and *Francis Freeling*, (VDL), No.2604, *A.O.T.*, Con.37, in M.Cash, *Martin Cash the Bushranger*, p.59.

Fig.4.3

## Changes in mode of punishment over time (%)



Sources: A.O.T.. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

Table.4.2 Changes in severity of punishment over time.

Period	1	2	3	4
1820-1824	46	7	129	0
1825-1829	40	7	103	13
1830-1834	48	7	186	11
1835-1839	43	5	153	8
1840-1844	50	9	244	15

1 = Average number of strokes per beating  
 2 = Average number of days per confinement  
 3 = Average number of days in chains per sentence  
 4 = Average number of days on the tread wheel per sentence

Sources: A.O.T.. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43



jetty, was my first experience of Van Diemen's Land. But the daily ration of brown wheaten bread and good fresh mutton, in a cooler climate, made these tasks, although irksome, not too much for my strength".<sup>1</sup>

Finally, before moving on to discuss aspects of the interaction between convicts, managers and private employers some observations should be made about non-demotional punishment. This term is employed to cover all disciplinary punishments which were used in addition or instead of locational and status demotions. Throughout the period of this study four instruments were employed to this effect (the lash, leg irons, the treadwheel and solitary cells) and one legal mechanism, a sentence extension. While this study has evaluated non-demotional punishment under these headings, it should be recognised that the measure of physical and psychological pain each inflicted was subject to factors which it is difficult or impossible to measure. This applies especially to ironings and beatings. The word "stripe" frequently, although not exclusively, replaces the word "lash" in post-1835 records. This change of usage suggests that a stick or cane was sometimes deployed, as opposed to the "cat" of popular imagination. Where "cats" were favoured they varied in weight and possibly in the number of tails and knots. Frightening accounts of the Port Arthur lash should not be taken as representative of beatings throughout the system.<sup>2</sup> It should also be born in mind that the severity of a beating is strongly correlated with the physical strength (and enthusiasm) of the flogger. While on the face of it ironings were open to less variation, this is not necessarily the case. Contemporary accounts suggest that the severity of the punishment depended largely on the disposition of the blacksmith who selected and fitted the irons.<sup>3</sup> As with floggings the system was open to the abuses of bribery and personal vendetta. The most widely used iron consisted of two rings, one attached to each ankle. These were riveted in place and connected by a short length of chain. The middle link of the latter was held off the ground by means of a cord which was itself permanently attached to the convicts belt (see Plate 4).<sup>4</sup> As well as conventional irons there were also much heavier instruments of restraint reserved for "hard cases". References were also found to Port Arthur convicts additionally encumbered by the

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<sup>1</sup> Mortlock, *Experience of a Convict*, pp.81-82.

<sup>2</sup> See for example Hughes, *The Fatal Shore*, pp.403-404.

<sup>3</sup> Cash, *Martin Cash the Bushranger*, p.68.

<sup>4</sup> One of the main grievances of ironed convicts was the construct of their slop clothing. As the belt could not be removed, the inside of the trousers were equipped with buttons in order to allow the convict to relieve himself without removing his chain. The gaps between the buttons were considerable and thus this garb provided only elementary relief from the winter elements. W. Gates, *Recollections of life in Van Diemen's Land*. (n.p., n.d.) reprint, G.Mackaness (ed.), (Australian Historical Monographs, Sydney 1961) Vol.XIV, Part 1. p.62.

attachment of a square block of wood to the linking chain.<sup>1</sup> While the principle is the same, no record could be found to the ball and chain so often employed as a symbol of Australia's penal era.

Perhaps of greater surprise are the indications that solitary confinement frequently fell short of the principles of "scientific punishment" implicit in its title. While cells at a later date were "...solid stone structure(s), six feet by four feet in height with a stone floor, the roof over-arched with stones, and without the least ray of light.."2, this standard of construction was rare in the 1820s and 30s. The Quakers, Backhouse and Walker, reported in 1834 that:

The effect of Solitary Confinement cannot be considered to have been fairly tried, in Van Diemens Land. Few of the Colonial Prisons at present admit of it, either in its most rigorous form or as it may be administered for longer periods combined with silent labour. In most of them the cells are within hearing of the other prisoners, or of persons outside, and in many, the cells are so few in number, that four, or more prisoners, sentenced...have been placed in the same cell at one time.<sup>3</sup>

Where full blown solitary cells were in operation the prisoners detested them. The convict John Mortlock succinctly summed up their effect. "Of course the brain is the seat of pain - very dreadfull"<sup>4</sup>.

The data also provided a graphic indication of the changes in administrative attitude to punishment over time. In the two and a half decades covered by this study the incidence of beatings declined as the lash was replaced with the ironed gang and solitary cells (see Fig.4.3). Limited use was also made of the treadwheel. A further indication of changing attitudes to convict discipline is provided by the rate at which convicts in the post-1839 probation gangs were arraigned before a magistrate. At 3.1 appearances per year they were charged at a greater rate than convicts in penal stations. While these changes are dramatic, the shift in punishment from the overtly physical to the psychological needs to be kept in perspective. It can be seen from table.4.2 that the average number of strokes administered per beating was at its highest under the

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<sup>1</sup> Cash, *Martin Cash the Bushranger*, pp.67-68.

<sup>2</sup> Gates, *Recollections*, p.54 (Gates arrived in Van Diemen's Land in 1842).

<sup>3</sup> J.Backhouse, *A Narrative of a Visit to the Australian Colonies*, (Hamilton and Adams, London, 1843), Appendix F, 'Report of the State of Prisons in Van Diemen's Land..1834', p.lx.

<sup>4</sup> Mortlock, *Experiences of a Convict*, p.76. I have not been able to ascertain whether Mortlock's observations were made as a result of direct experience. This comment, however, relates to his stay on Norfolk Island in the late 1830s early 1840s.

probation system, as was the number of days per sentence in chains. The general accent of punishment was physical throughout the period.

### III

The offences can be split into two categories. Those which contravened the rules and regulations that applied specifically to convicts and those which broke the criminal law as it applied to all colonial subjects. The first category was entirely composed of rules designed both to keep convicts at work in specific localities and within a deferential employer-worker relationship. They include offences such as absconding, refusing to work, malingering, disobedience of orders and insolence. The second category can be further broken down into offences against property, the person and miscellaneous crimes of a public nature. The latter includes perjury, unnatural acts with no accompanying assault charge and drunkenness. As convicts were frequently charged with multiple offences, for example, "neglecting his duty and being drunk and disorderly", the number of charges recorded for the data set was greater than the number of arraignments, 1928 compared to 1703. Fig.4.4 shows a distribution of charges recorded according to this simple typology.

The standard accounts of the Van Diemen's Land transportation system accept almost unreservedly the observations of those contemporary commentators who were obsessed with the notion of a criminal class.<sup>1</sup> Thus, previous attempts to analyse the offence registers have been conducted within a framework of "criminal types".<sup>2</sup> In particular, the colonial activities of young Scots and English city dwellers have been invidiously singled out as examples of the hardened Dickensian criminal in action. Such studies conclude that these men and women were difficult to reform and of little, or no, productive use to the colony. Under-pinning this assumption is the subsidiary notion that crime is contagious,<sup>3</sup> a view which reflects the abolitionist characterisation of transportation as "that hated stain".<sup>4</sup> Generally, historians have failed appreciate the extent to which slurs on the convict's character were used, in Sturma's words, "to relegate convicts to a role of 'outsiders' in the community on the basis of their moral

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<sup>1</sup> See for example, A.G.L.Shaw, *Convicts and Colonies*, (Faber and Faber, London, 1971) p.62 and Hughes, *The Fatal Shore*, pp.159-160.

<sup>2</sup> L.L.Robson, *The Convict Settlers of Australia*, (Melbourne University Press, Carlton, Victoria, 1976) pp. 93-99 and 110-111 and J.Moore, *The Convicts of Van Diemen's Land, (1840-1853)*, (Cat and Fiddle Press, Hobart, 1976), pp.71 75-81, 91-94, 103

<sup>3</sup> M.Sturma, *Vice in a Vicious Society*, (University of Queensland Press, St. Lucia, 1983)pp.1-3.

<sup>4</sup> H.Reynolds, 'That Hated Stain, the Aftermath of Transportation in Tasmania'. *Historical Studies* Vol.14, No.53, (1969), pp.19-31 and Sturma, *Vice in a Vicious Society*, p.51.

inferiority..".<sup>1</sup> Beyond a regurgitation of the views of nineteenth-century employers and anti-transportationists, few attempts have been made to locate the offence data within the convict system's own complex internal stratification.

Before attempting such an analysis it is necessary to consider some of the pit falls of the source material. The information recorded in the Van Diemen's Land offence registers was subject to processes similar to those which influenced the operation of the British criminal law.<sup>2</sup> The records are thus not an indication of the total number of offences committed by convicts in the data set, but only of those detected and followed up with a bench or court appearance. As with any legal code, the means by which many detected offences were dealt with out-with the court room or the magistrates parlour are as intriguing as those which supplied the clerks office with data for the registers.<sup>3</sup> Some examples, are offered by way of illustration.

When a Van Diemen's Land convict named Rowland downed tools at the end of what he considered to be his working day his master informed him in no uncertain terms that he "would finish by bringing him before a magistrate". The convict's reply was blunt. "I dare say you would like to see a poor fellows back laid bare". Yet, the threat was enough to back up the employer's chosen method of labour control, a cut in the ration. The assigned servant's one man protest was broken without delivering the worker into the hands of any external authority.<sup>4</sup> Even when an employer did put the the legal mechanisms which supported his or her position of authority into action, it did not necessarily mean that the convict would end up before the bench. On 30 November 1823, Adam Amos, district constable at Swan Port was called to George Meridith's property to arrest an assigned servant named Henry Hunt. Hunt stood charged with insolence and striking his master, a serious offence. Amos, took Hunt into his custody but asked him whether he was prepared to apologise. Although Hunt refused, the district constable wrote to Meridith claiming that the man was most penitent and was prepared to offer an assurance of future good behaviour in return for his master's leniency. Having received a positive reply from Meridith, Amos was able to persuade Hunt to return to his place of employment under the aforesaid conditions. The magistrate was none the wiser and Amos was spared a trip away from his farm as escort to the prisoner.<sup>5</sup>

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<sup>1</sup> Sturma, *Vice in a Vicious Society*, p.30.

<sup>2</sup> See for example, P.King, 'Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800, *Historical Journal*, Vol.27, (1984) pp.25-58.

<sup>3</sup> Sturma, *Vice in a Vicious Society*, pp.64-80.

<sup>4</sup> Diary of James Cubbiston Sutherland, 23 October 1824, A.O.T. N61/1.

<sup>5</sup> Diary of Adam Amos, 30 November - 15 December 1823, A.O.T. NS/323/1.

The general point that needs to be made is not that the power of masters could amount to little,<sup>1</sup> but that in the absence of gang organisation, the marginal revenue product per unit of incentive was greater than for an equivalent unit of coercion. Masters structured their management tactics accordingly. Many undoubtedly turned a blind eye to activities which, although irksome, did not effect productivity. George Hobler, a large land owner, reported that one of his assignees was often found out at night attempting to gain access to "our government women". Yet although the example of this man would "spoil a regiment", the "fellow can work and therefore must not hastily be thrown up".<sup>2</sup> Others, chose to reward "good" assignees rather than punish the troublesome. Ellen Viveash wrote to her mother in England after she and her husband Charles had just recovered from a bout of illness. "Rossiter behaved incomparably well night and day coming as long as I was well to ask me what the men should do next day. Bill the gardener and *Factotum* (general hand) like wise very well, 3 other men *very* badly, refusing to even chop wood...Charles (Viveash) has given Rossiter and Bill a pound each and spoken severely to the others and told them he will be severe with them until by good conduct they made him forget this".<sup>3</sup>

As indicated above, the most striking pattern exhibited by the data returns is the relationship between labour gang organisation and the frequency of arraignments.<sup>4</sup> However, while this was generally the case, some categories of offences were inversely distributed. It is apparent that the changing relationship between convict, employer and method of work organisation had a marked impact on the offence pick-up rate. Yet, this effect was a good deal more complicated than that portrayed by the general trend. Broadly speaking, the offences with which the convicts in the top three tiers of the system were disproportionately charged, reflect the relative low rate of supervision, the emphasis placed on indulgences and the access to "free" time, all of which were characteristic of working conditions at these levels.

Nowhere is this more vividly illustrated than in the distribution of drink related offences (see fig.4.5). While the standard accounts of Van Diemen's Land have emphasised the

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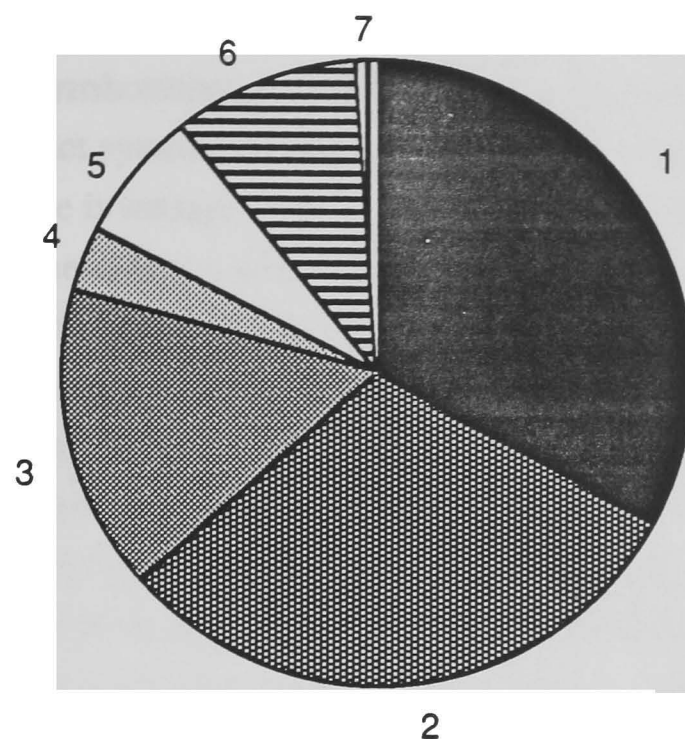
<sup>1</sup> Hirst, *Convict Society and its Enemies*, p.33.

<sup>2</sup> As quoted in Shaw, *Convicts and Colonies*, p.223, T.S.G., Deeds and Titles Office, Land Conveyance Registers 1827-1835.

<sup>3</sup> E.Viveash to mother, post marked England, 5 January 1835, in P.Statham (ed.), *The Tanner Letters*, (University of Western Australia Press, Nedlands, W.A., 1981) p.93.

<sup>4</sup> The assertion that punishments in road parties were more frequent because the character of the convicts was worse entirely misses the point. Shaw, *Convicts and Colonies*, p.213. Punishments were more frequent because the work undertaken was compatible with a high rate of supervision and accompanying coercive management techniques.

Fig.4.4 Percentage breakdown of charges against convicts.



**Offences against the convict regulations.**

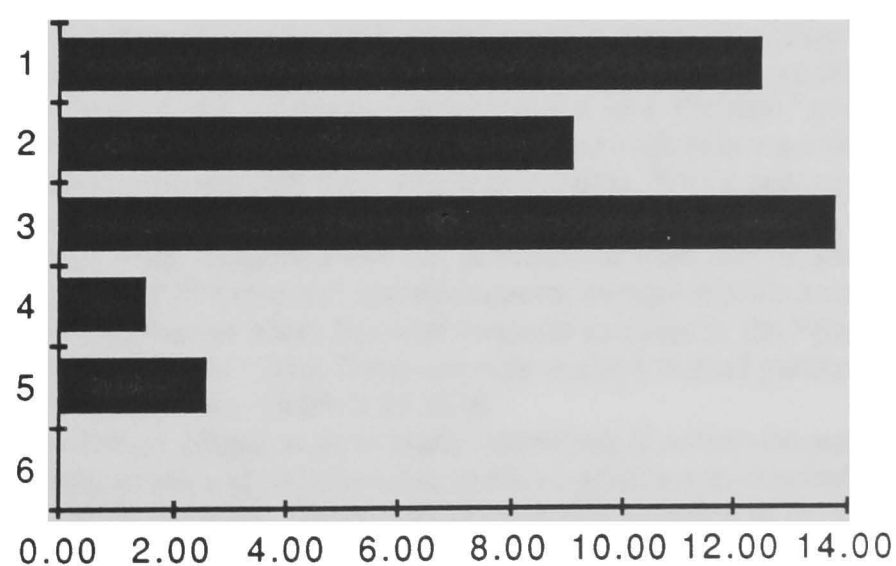
- 1= Contravention of work place regulations.
- 2= Movement offences (absenting and absconding)

**Offences against the criminal law**

- 3= Theft, receiving, trafficking, unauthorised possession of objects.
- 4= Wilful destruction of government or employer's property.
- 5= Alcohol related offences.
- 6= Disorderly or violent behaviour.
- 7= Others; perjury, unnatural acts and keeping a disorderly house.

Sources: A.O.T.. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

Fig.4.5 Alcohol related arraignments



Expressed as a percentage of all offences committed in each category of labour.

1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.

Sources: A.O.T. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

convict's addiction "to the bottle", little or no attempt has been made to put this data into perspective.<sup>1</sup> The prevalence of drinking amongst certain sections of the convict population provides corroborative evidence that the organisation of labour differed widely within the convict system. Although subject to other influences, it is apparent that rate of alcohol abuse is strongly correlated with levels of surplus income.<sup>2</sup> Thus, it is not surprising that the offence was most prevalent amongst those sections of the convict population which had access to their own time and hence the ability to earn a cash wage.<sup>3</sup> This conclusion is supported by the high incidence of drinking offences amongst convict "office" holders employed on a weekly salary (20 percent of their recorded offences).<sup>4</sup> From examination of individual charges it is apparent that most alcohol related committals resulted from drinking in locations external to the work place, (twenty percent were accompanied by an absent from duty or place of residence charge). Typical examples include: John Brown, a seaman charged with returning to barracks drunk; William Birt, a shoemaker, charged with being drunk and disorderly and absent from his lodgings at 10 o'clock and Hugh Yarwood, a public works bargeman discovered out after hours and tippling in the public house of Mr John McDiamid.<sup>5</sup> While private employers frequently ignored the regulations which forbade the payment of cash sums to their assignees<sup>6</sup>, convicts allocated to rural properties did not have the relatively easy access to drinking establishments enjoyed by their urban counterparts. The density of bush bars and hotels was low, and those that were accessible were more easily patrolled by the rural constabulary. Thus, it is not surprising that while assignees were often arraigned on alcohol related charges, they

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<sup>1</sup> Robson, *The Convict Settlers*, p.157.

<sup>2</sup> Sturma, *Vice in a Vicious Society*, p.142 and 144.

<sup>3</sup> Ticket of leave convicts were allowed to seek employment in the private labour market or were hired by government on a conventional wage. Assigned servants were employed by private individuals for a set number of hours a week at the government maintenance rate. Outside "government hours" they could negotiate extra incentive payments for further labour although they were theoretically prohibited from working for an employer other than their master or mistress. While cash payments for extra work were illegal, these regulations were often ignored. Public works convicts Class One consisted mostly of government mechanics. They laboured a five day government week and for themselves on Saturday. They were expected to pay for clothing and accommodation through income earned in their own time. Class Two convicts enjoyed similar hours but were required to lodge in the Prison Barracks and were more restricted in their movements. Class Three convicts worked in road parties, but were released at noon each Saturday. *Colonial Times*, October 25 1826.

<sup>4</sup> The case of constable Robert Hogan is particularly interesting if rather unusual. On August 15 1838 he was charged with being drunk and endeavouring to excite prisoners to abscond. An action which did not impress the magistrate in the least. Hogan was given a year sentence to the Grass Tree Hill ironed gang. Robert Hogan, colonially born, Cumberland (NSW), per *Admiral Gifford* (VDL), No.1769, A.O.T. Con.31.

<sup>5</sup> John Brown per *Phoenix*, No.753, A.O.T. Con.31, 19 April 1827; William Birt, per *Sir Geoffrey Webster*, No.683, A.O.T. Con.31, 15 July 1824 and Hugh Yarwood, per *Competitor*, No.32, A.O.T. Con.32, S.V.1, p.10, 23 July 1829.

<sup>6</sup> Journal of Peter Harrison, p.15 and 33, A.O.T. Hudspeth files, N.S. 690/23; P.P., XXII, (1837-8), Minutes of Evidence Taken Before the Select Committee of Transportation, Rev. W.Ullathorne, 8 February 1838, p.17; E.Parry, 26 February 1838, p.64 and P.Murdoch, 22 March 1838, p.121.

were pulled up at a lesser rate than those categories of convicts heavily deployed in urban areas. Although they framed their observations in a different manner, the point was not lost on Backhouse and Walker. "Whenever a fresh Public House is opened, there the settler finds his servants more difficult to keep in order than before, whether they be bond or free"<sup>1</sup>.

Table.4.3 Absent from duty as a percentage of offences committed in labour grades two and three.			
Skill classification	1	2	3
Unskilled rural	6	65	9.2 %
Skilled rural	9	63	14.3 %
Skilled and semi-skilled urban	71	300	23.7 %
Unskilled urban	30	125	24.0 %
Domestic service	13	44	29.5 %
Skilled and semi-skilled building	24	81	29.6 %
1 = Number of times recorded absent. 2 = Number of offences recorded while assigned or on public works grades 1 and 2. 3 = Absent as a percentage of offences.			
Sources: A.O.T. Con.23, 18, 31, 32, 33, 35, 37 and 78; P.R.O. H.O. 10/43 and A.O.N.S.W., Convict Indents.			

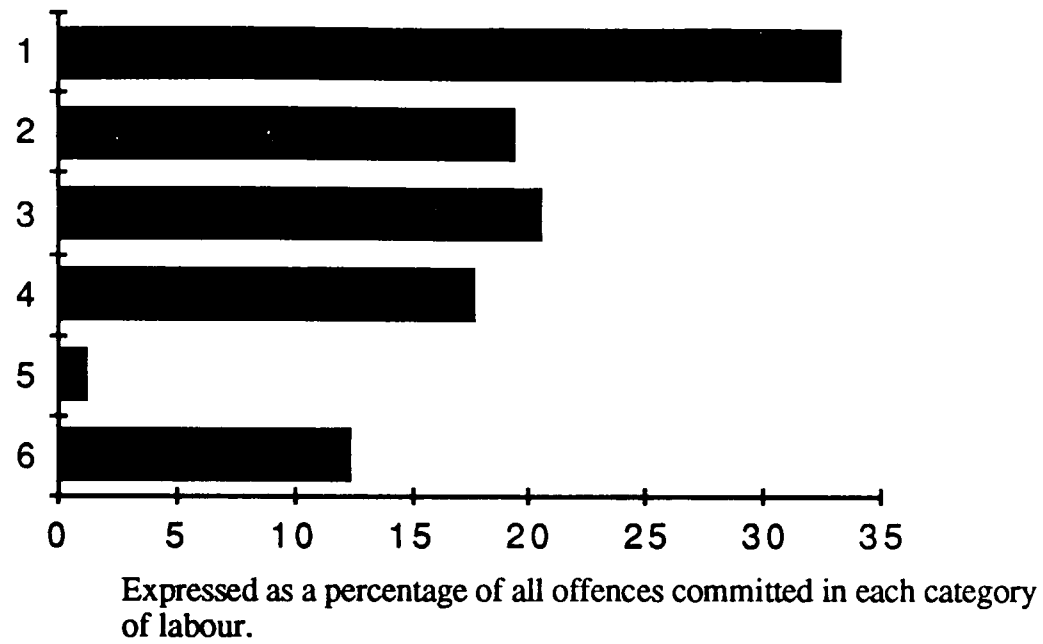
Convicts who walked away from their duty or from their quarters for short periods of time, frequently only a matter of hours, were liable to be charged with being absent (see Fig.4.6). The data supports the assertion that a high degree of supervision was not characteristic of employment in the top grades of convict service. Without an effective monitoring system, employers found it hard to regulate the hours of their convict workforce. A more detailed breakdown of convicts who were charged with being absent from their place of employment or residence is listed in Table 4.3. This return is restricted to convicts assigned or on loan to private individuals and those employed on the public works. The data indicates that absenteeism was predominantly an urban phenomenon. Two categories of workers feature disproportionately in the returns, male domestic servants and skilled and semi-skilled building and construction workers. Both were predominantly employed in Hobart and were commonly paid cash incentives on top of comparatively generous rations. Convict "mechanics" in particular were notorious for their habit of taking an extra leisure day, usually Monday, "to spend what

<sup>1</sup> Backhouse, *A Narrative*, Appendix F., 'Report of the State of Prisons in Van Diemen's Land..1834', p.lxii.



Fig.4.6

### Convicts arraigned on charges of being absent

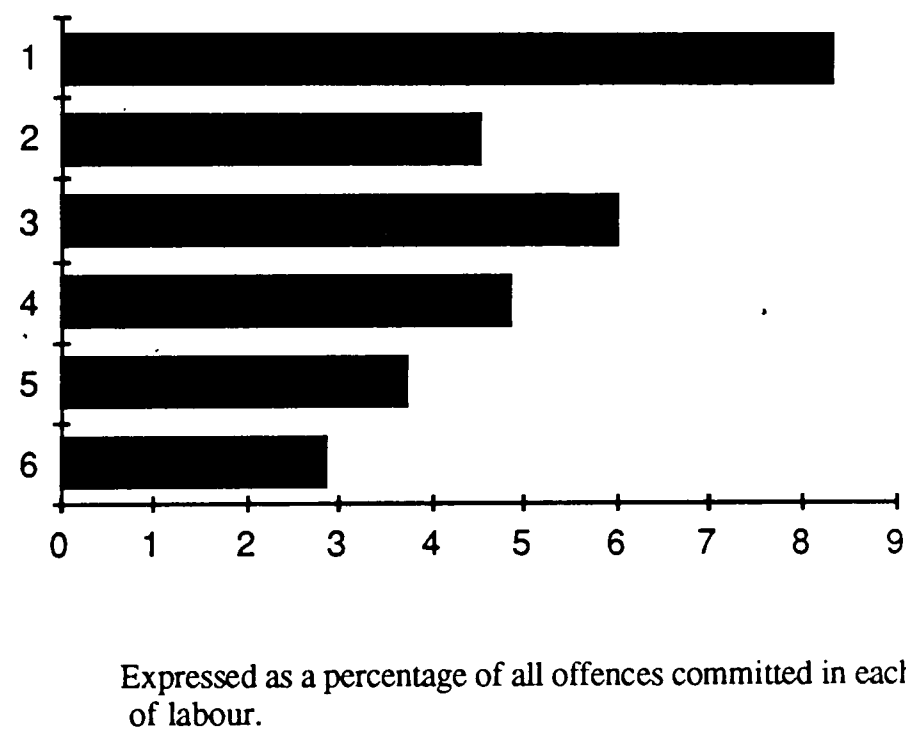


1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.

Sources: A.O.T. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

Fig.4.7

### Convicts arraigned for assault.



1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.

Sources: A.O.T. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

they receive in wages".<sup>1</sup> In contrast, rural workers were charged with this offence comparatively infrequently, a return which supports the conclusion that while there was little to stop this category of assignees wandering off, there were few external attractions within easy striking distance to tempt them away. As one assigned servant put it in a letter to his parents: "I can go out hunting or shooting of kangaroo . . I have dogs and a gun of my own, thank God for it, to make me a few shillings, anything that I want; thank God, I am away from all beer-shops, there is ne'er a one within 20 miles of where I live".<sup>2</sup>

The distribution of assaults over the various levels of the Van Diemen's Land convict system is depicted in Fig.4.7.<sup>3</sup> As with slaves, the convicts' reputation for violence would appear to rest on two interrelated factors, access to alcohol and the loose control which typified the management of convicts in urban areas.<sup>4</sup> It is not particularly surprising that ticket of leave and public works convicts were charged with assault at a higher rate than any other category. As we have noted these men were disproportionately located in Hobart and had a great deal of freedom of movement. Indeed one feature of this offence pattern is that it led to much friction between prisoners and convict office holders. Assaults by prisoners on the convict constabulary were not uncommon. William Gates, who was conscripted into the police while serving as a prisoner in Van Diemen's Land, described his primary duty as follows. "Whenever the constable finds a drunken person, he is obliged to take him to the watch house, for which he receives half the fine, which is usually five shillings."<sup>5</sup> The actions of the police force did not make them popular.<sup>6</sup> The fairly common charge "drunk and

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<sup>1</sup> *P.P.*, XXII, (1837-8), Minutes of Evidence, Rev. W.Ullathorne, 8 February 1838, p.18 and E.Parry, 26 February 1838, p.46; see also E.P.Thompson, 'Time, Work-Discipline, and Industrial Capitalism', *Past and Present*, No.38 (1967) p.73.

<sup>2</sup> C.M.H.Clark, *Select Documents in Australian History 1787-1852*, (Angus and Robertson, Sydney, 1950), Vol.1, p.131.

<sup>3</sup> Assaults and other violent offences were divided into three categories. First, offences where all parties concerned were prisoners, excluding constables and overseers. Secondly, assaults on masters, convict administrators and convicts who held official positions. Thirdly, assaults on people of undefined status. Care was also taken to isolate all offences that were ambiguously described as disorderly behaviour. Finally, a note was also made of cases which involved threatened, or implied, violence. In all offences which implied the use or the threatened use of violence, including disorderly conduct, accounted for 9.7 percent of the total. Offences which specified actual violence accounted for only 4.9 percent and attacks on employers and administrative officials just 2 percent. The evidence suggests that inter-prisoner violence (excluding attacks on convict office bearers) was less harshly dealt with than assaults on employers and officials. Convicts in the data set so convicted and sentenced to corporal punishment received on average 43 strokes, compared to 52 for hitting an overseer or employer, (the equivalent data for sentences to the tread wheel were 3.5 days compared to 14).

<sup>4</sup> Genovese, *Roll Jordan Roll*, p.635 see also Sturma, *Vice in a Vicious Society*, p.152.

<sup>5</sup> Gates *Recollections*, p.20.

<sup>6</sup> M.Sturma, 'Police and Drunkards in Sydney, 1841-1851', *Australian Journal of Politics and History*, Vol.27, No.1 (1981) p.48-51.

resisting and assaulting a constable in the execution of his duty" suggests that many prisoners took exception to the entrepreneurial activities of the convict police.<sup>1</sup>

It would be a mistake, however, to suggest that all attacks by prisoners on the police fell into this pattern. On the 6 November 1819 Hector MacDonald, the launch coxswain at Port Dalrymple, was charged with resisting and striking a constable. He was found guilty and sentenced to 25 lashes and two months hard labour in chains in the gaol gang.<sup>2</sup> Surviving depositions relating to the case give an entirely different picture. MacDonald had been drinking with a convict constable named Hall. In the words of MacDonald "I got drunk, and words occurred between constable Hall and me, when I found myself hurt (and abused) by blows from Hall, I got irritated, and what I did afterwards I don't know...". According to a witness, he picked up an axe and struck Hall twice across the forehead. In the circumstances, MacDonald's sentence was comparatively light, a factor not unconnected with the Commandant's view "that the conduct of the constables in this instance is highly reprehensible by drinking and rioting with the prisoner, which circumstance is the cause of the unfortunate Prisoner now being brought forward."<sup>3</sup>

To summarize, convicts who were privately employed or worked in skilled publicly managed production teams, were instructed to work certain hours but were not constantly supervised. Accordingly convicts tended to work the number of hours they wished and then exercised the choice to spend their earnings in self-appointed leisure time. Whereas, employers, both public and private, could have organised effective supervision through the whole working day, this was against their best interests.<sup>4</sup> They recognised that the cost of adequate supervision was greater than any return which could be expected through a resultant increase in production. Thus, convicts and managers came to the same understanding as employers and employees have reached then and since in a multitude of work locations. The incentives which this category of

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<sup>1</sup> See for example John Smith per *Mangles*, No.2045, A.O.T. Con.31, 20 December 1839 and William Higman a gentleman's servant ("Decent able to wait at table") charged with "Absenting himself from Gov(ernment) Ho(us)e... being drunk in the Streets during Divine Service & assaulting Constable Collier in the execution of his duty". per *Countess Harcourt*, No.329, A.O.T., C.S.O.1/356/8123 and Con.31, 21 August 1821. Finally, just to prove that there is an exception to every rule, on 15 October 1832 William Ward was dismissed from the police for "Allowing a Prisoner in his Charge to partake of a drink at a public house". William Ward, per *Manlius*, No.1065, A.O.T. Con.31.

<sup>2</sup> Hector MacDonald, per *Lady Castlereagh*, No.61, A.O.T. Con.31 and *H.R.A.*, Ser.III, Vol.III p.718.

<sup>3</sup> *H.R.A.*, Ser.III, Vol.II p.849.

<sup>4</sup> Effective night time supervision was employed for public works class two convicts who were locked in the prison barracks from dusk until dawn. This was considered a punishment in its own right.

convict labour saw as rightfully theirs were augmented by a host of other semi-legal "privileges, perquisites or fringe benefits".<sup>1</sup> One of the most important of these was a large degree of freedom in time and movement. Employers accepted this and prosecuted only those cases which they regarded as gross abuses. These were generally the offences which were easiest to detect and thus involved a minimum of extra cost. For example, when a convict returned home drunk and was abusive to his fellow servants and/or his master, his offence was self-announced and negated the need to employ a monitor. Over and above this, the rate of pick-up was increased through prosecutions brought by third parties, notably the colonial police. While for simple cases of drunkenness, disorderly behaviour and absenteeism, the repercussions were not serious,<sup>2</sup> where offences included assaults, employers could expect to lose the services of their convicts. Generally, however, the recorded rate for all three offences can only give an indication of the prevalence of loose and disorderly behaviour. The majority of offences were not prosecuted even when detected, as this was against the employer's best interest.

Convicts appear to have had a strong sense of their rights both as labourers and unfree workers. The Rev. William Ullathorne told the Molesworth Committee enquiry that "when the men find that they are under constraint, and that they receive no wages in return for their work, they very soon get the idea into their minds (it is astonishing how quickly they get that idea) that they are entitled to pilfer from their masters the amount of what their wages would be at home."<sup>3</sup> Equally, assigned servants would often refuse to accept Kangaroo *in lieu* of the normal beef or mutton ration. Master's saw no difference between the two, as both were bestowed in greater quantities than the government ration as an "indulgence". Convicts, however, had a distinct notion of the ration as a wage and were unwilling to accept anything which in their eyes cost an employer little or nothing.<sup>4</sup> While there was a clear conflict of opinion, in the higher grades of service it was generally recognised that if the rate of production was to be maintained a degree of leakage from the stores had to be tolerated. Private employers, especially, appear to have frequently turned a blind eye to the "depredations" of their convict servants. Alexander Harris reported a stay in a New South Wales stock hut where the convict occupants had strung a carcass from the lintel. When their master

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<sup>1</sup> A.Alchain and H.Demsetz, 'Production and Information Costs, and Economic Organisation.', *American Economic Review*, Vol.62, (1972) pp.780-781.

<sup>2</sup> Usual punishments consisted of fines, reprimands and very short stays in police cells on bread and water.

<sup>3</sup> *P.P.*, XXII, (1837-8), Minutes of Evidence, Rev. W. Ullathorne, 8 February 1838, p.17.

<sup>4</sup> *P.P.*, XLII, (1837-38), Copy of Despatch from Lieutenant-Governor Sir John Franklin, to Lord Glenelg, relative to the present system of Convict Discipline in *Van Diemen's Land*, Note (G) Testimonials by Messrs. Backhouse and Walker, p.32.

paid an unexpected visit he almost collided with the expropriated sheep. Yet, although he could not have failed to notice the animal he turned his back on the evidence and spoke to the men as though he had seen nothing.<sup>1</sup> Evidence to support this observation can be found in the low pick up rate for theft of clothing and food amongst assignees (see Fig.4.12).

As we have already noted, one interesting aspect of drink, absenteeism and assault cases is that as they often occurred in public places, arrests and arraignments were frequently pursued by authorities external to the work place. Even when a prisoner was not arrested in the streets complaints about his or her activities could force an employer's hand. This was also a characteristic feature of many theft charges. The victims of large thefts were rarely employers. While there is evidence that some assigned servants "cased" their master's property in return for a cut of the takings, the target of break-ins were generally shops, warehouses and private dwellings external to the place of work. While it is difficult to draw any firm conclusions from the data, the indications are that this pattern was very different from that for petty theft. While choosing an external target for major depredations lessened the chance of detection and facilitated the disposal of stolen property, there was one major disadvantage. If detected, the convict was prosecuted externally. He or she could not barter with an employer, offering assurances of future good behaviour in return for an internal hearing. Where the prosecutor was a third party, convict and employer had little room for manoeuvre. Indeed there is some evidence that employers viewed such developments with horror. Externally initiated charges cut across the paternal organisation of employer-servant relations. Masters feelings of betrayal when faced with evidence of their employees external offences need to be viewed within this context.<sup>2</sup>

Private employers brought proportionally more charges of neglect of duty to the attention of a magistrate than any other section of management (see Fig.4.8), a finding which is supported by the testimony of Edward Parry, Commissioner for the Australian Agricultural Company.<sup>3</sup> There is a strong indication that an understanding existed between magistrates, the majority of whom employed convict servants on their own properties, and masters. The evidence suggests that where a convict consistently

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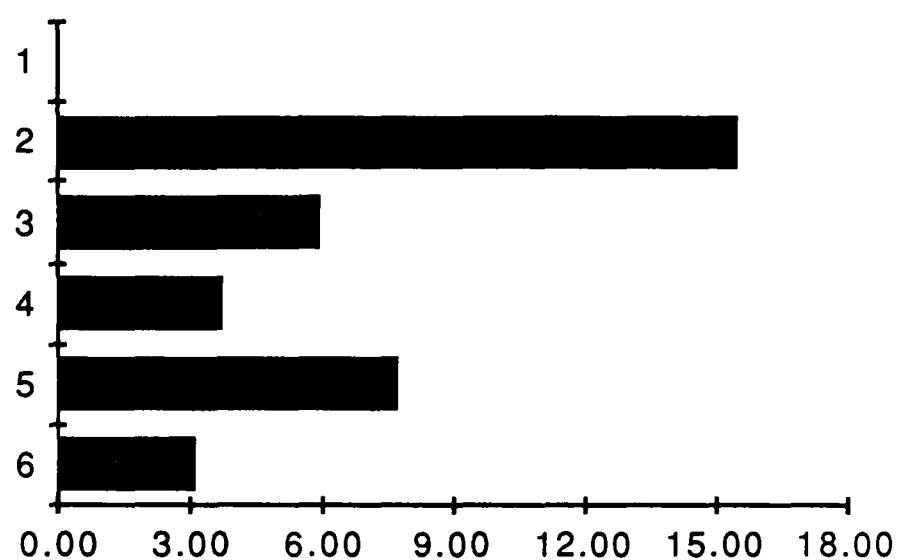
<sup>1</sup> A.Harris, *Settlers and Convicts: Recollections of Sixteen Years Labour in the Australian Backwoods by an Emigrant Mechanic*, (n.p., London, 1847) reprint (Melbourne University Press, Carlton, Victoria, 1977), pp.185-186.

<sup>2</sup> D.B.Gaspar, *Bondsmen and Rebels: A Study of Master Slave Relations in Antigua*, (John Hopkins University Press, Baltimore, Maryland, 1985) p.131.

<sup>3</sup> *P.P.*, XXII, (1837-8), Minutes of Evidence; E. Parry, 26 February 1838, p.64.

Fig.4.8

## Convicts arraigned for neglect of duty



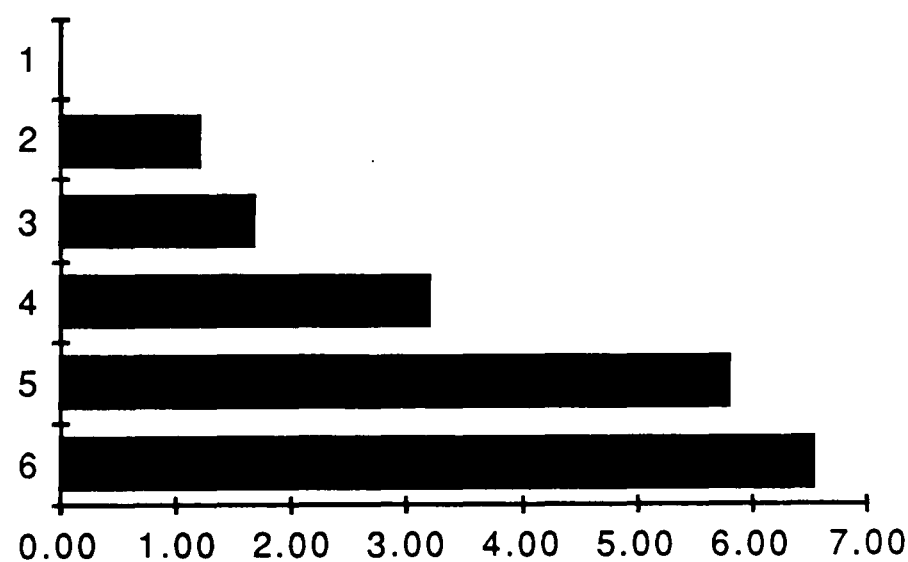
Expressed as a percentage of all offences committed in each category of labour.

1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.

Sources: A.O.T. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

Fig.4.9

## Convicts arraigned for malingering



Expressed as a percentage of all offences committed in each category of labour.

1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.

Sources: A.O.T. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

hindered production or simply was not up to the demands of the job, employers used the bench as firing mechanism. Returning a servant as "useless" did not necessarily mean that a replacement would be forthcoming. However, using an actual or manufactured charge to dismiss a servant guaranteed a government replacement. Of sixty-three cases that fell into this category, twenty-one (33 percent) involved low or unskilled workers.<sup>1</sup> Such practices did not escape the attention of Backhouse and Walker. They confirmed that complaints were often made of settlers "bringing frivolous charges against men who are not very efficient servants, and of some magistrates for listening to expressions of desire that such may be committed to road-parties; and for acting upon such suggestions rather than upon the merits of the respective cases".<sup>2</sup> The experience could be very painful for the convict, for 41 percent of these arraignments ended in beatings of either 25 or 50 strokes. Thus, while incentive based management may have been characteristic of private sector workplace organisation there were exceptions to the rule. Employers, however, had to be careful not to overstep the mark. Convicts had a variety of methods of fighting back.

From the viewpoint of the state, or employer, any convict activity which breached the rules and regulations governing the bond section of the labour force was anti-authoritarian. The convict was resisting attempts to make him or her a "good" servant and also, because of the unique position of transportation systems, a penitent prisoner. From the point of view of the convict it is much more difficult to attribute motives to individual acts, although it is possible to impute the nature of some acts by examining them in relationship with management strategies. On the most basic level John Fisher challenged the convict system when he used "abusive language to Mr. W. Jamieson his late master on the highway." His satisfaction was no doubt increased when his only punishment was to be transferred from his present gang to one in Hobart.<sup>3</sup> While, Fisher's personal protest hardly caused his ex-employer or the convict administrators much alarm, a verbal attack was nevertheless a challenge to the hierarchy of power, hence the charge of "insubordination". Physical attacks were obviously more worrying. When John Johnson, assigned to the Van Diemen's Land company, hit sub-overseer

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<sup>1</sup> Workers in this category made up 16 percent of occupations in the data set. However, the significance of this finding needs to be kept in perspective. As illustrated in the previous chapter, there are strong indications that unskilled urban workers were disproportionately allocated to the private sector. However, rural workers, whose allocation followed a similar pattern, accounted for only 13 percent of private sector neglect of duty charges (compared to 16 percent of all occupations in the data set). Appropriation lists for the convict ships *Aurora* and *Elphinstone*, A.O.T. Con.27; Description registers, Con.18 and 23; Offence registers, Con. 31, 33, 35, 37, 38, and 78; C.S.O. Muster rolls for convict ships; A.O.N.S.W., Convict Indents, P.R.O. H.O. 10/43.

<sup>2</sup> P.P., XLII, (1837-38), Copy of Despatch, Note (G) Testimonials by Messrs. Backhouse and Walker. p.25.

<sup>3</sup> John Fisher, per Asia 1 (2) (NSW) and Clyde (VDL), No.237, A.O.T. Con.31, 26 August 1828.

Sexton with his spade and threatened him "with violence even though he should die for it", he was given 100 lashes.<sup>1</sup> However, the evidence suggests that complete rejections of authority were rare and, in the main, restricted to a small minority of exceptional convicts. This is not to say that where direct attacks occurred they did not have an effect. As has been observed for the southern slave states, scattered incidents of assaults on masters had an impact on slave-owning society out of all proportion to their rather limited occurrence.<sup>2</sup> Most convicts, however accepted their status as unfree workers. Yet concealed within this acceptance was a recognition that their conditions of service did extend them certain rights. Where managers, both public and private, bond and free, encroached on these rights convicts were quick to respond. Broadly speaking, there were three distinct forms of protest adopted by convicts: they appealed to authority; withdrew their labour and turned to their own "supplementary code of punishment" and inflicted compensatory retribution.<sup>3</sup>

Rural proprietors in particular presented an easy target for convict counter-attack. Within a month of being given 25 lashes for insolence to his mistress and "grossly improper language before his masters children", Hugh Graham was up before the magistrate again. This time the charge was "violent suspicion of having maliciously wounded his masters Cow with an Axe".<sup>4</sup> As the wording of the charge suggests, employers often experienced great difficulty in discovering the perpetrators of acts of sabotage.<sup>5</sup> The other three cases of livestock maiming or killing in the data set are probably not a good indication of the prevalence of this form of convict action.<sup>6</sup> Likewise, it is not particularly surprising that no convict in the data set was charged with arson (that is, prior to bushranging). Arson was not a prevalent form of convict action, but attacks occurred frequently enough to cause concern amongst the propertied

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<sup>1</sup> James Johnson per *Governor Ready*, No.332, A.O.T. Con.31 17 December 1828.

<sup>2</sup> Genovese, *Roll Jordan Roll*, p.615

<sup>3</sup> A. Atkinson, 'Four Patterns of Convict Protest', *Labour History*, No.37, (1979) p.30.

<sup>4</sup> This time Graham was sentenced to 14 days tread wheel and recommended to be reassigned in the interior. His next offence, however, was committed in Notman's Road Party, which suggests this was considered a safer location. No information could be found concerning T.Cole, Graham's employer. Hugh Graham, per *Persian* (2), No.705, A.O.T., Con.31, 1 and 28 November 1831.

<sup>5</sup> Richard Millar, a farmer, charged with "Injuring a mare the property of his master...and being a suspicious character" had also previously been subject to a beating initiated by the same employer. Samuel Britton a farm labourer was arraigned on a charge of "Feloniously killing the calf of his master, but the magistrate, James Gordon dismissed the case when no prosecutor appeared. Richard Miller, per *Prince of Orange*, No.367, A.O.T. C.S.O.1/403/9099 and Con.31, 14 April 1825 and Samuel Britton, per *Caledonia*, No.547, A.O.T. Con.23 and 31, 19 May 1823.

<sup>6</sup> Another interesting if not very subtle case was that of George Fawcett, free by servitude. Fawcett was re-transported from New South Wales to Norfolk Island for killing a horse. He stated that the prosecutor was John Leeds of Patrick Plains, "I was in a drunken spree - I had previously threatened to kill the Horse if he did not pay me money he owed - I was employed as a Driver". (The record does not specify whether Leeds was Fawcett's employer or not). George Fawcett, per *Susan* (NSW), *Lady Franklin* (VDL), No.13058, A.O.T. Con.33, 5 May 1841.



classes. Even when much circumstantial evidence pointed to a particular convict, it could prove extremely difficult to gather enough firm evidence to prosecute.<sup>1</sup> Cattle maiming and arson may well have been in Hobsbawm and Rudé's words, the work of "disgruntled" individuals, "whose aim was to settle a personal score rather than to right a public wrong".<sup>2</sup> Masters, however, thought that the chief obstacle to effective prosecution was that the few were protected by the many.

To give an example, Joseph Archer's wheat stacks mysteriously burst into flames not long after the prisoners had "knocked-off" work on 5 September 1831. The overseer immediately ran up to the two huts nearest the fire where he encountered the prisoner George Stewart. The latter was leaning against the wall of his hut calmly smoking a pipe. He was in full view of the blaze and when Tait approached him he said "in a very careless manner", "Oh dear, what is the matter." Although Stewart had been refused a new issue of clothing the day before and William Thomas, who lived with him, had had his incentive allowance stopped a fortnight before the fire, no evidence could be found to link them with the destruction of the stacks.<sup>3</sup> Joseph Archer estimated the damage at £500 and strongly suspected that his assigned servants had "culpably suppress'd" the extent of the information they knew. He petitioned the Governor for the replacement of all the men employed at Burlington but the colonial secretary was unwilling to comply.<sup>4</sup> Archer, one of the largest land owners in the colony, was far from powerless. He could use the withdrawal of extra rations and other incentives as a form of work place coercion, or charge a convict at the house of one of his fellow magistrates. Yet, as he lacked effective supervision on his estate, such action could prove very costly. As Peter Murdoch replied when asked if it was common for convict servants to injure cattle "out of revenge", "I think it depends very much how the men are fed and treated".<sup>5</sup> Through failing to secure the willing cooperation of skilled workers masters also risked damage to their property through careless or wilful negligence. Again livestock was particularly susceptible to damage. There were three cases of injury or death caused to horses and bullocks through reckless driving. All

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<sup>1</sup> Genovese, *Roll Jordan Roll*, p.613; P.J.Schwarz, *Twice Condemned: Slaves and the Criminal Laws of Virginia, 1705-1865*, (Louisiana State University Press, 1988) p.39 and E.J.Hobsbawm and G.Rudé, *Captain Swing*, (Penguin Books, Harmondsworth, Middlesex, England, 1985) p.166. We should, however, add one cautionary note. In the absence of firm evidence masters, just like slave owners, often assumed that it was their assigned servants who were responsible for the attack.

<sup>2</sup> Hobsbawm and Rudé, *Captain Swing*, p.171.

<sup>3</sup> Examination of John Tait, C.S.O. A.O.T., 1/547/11913.

<sup>4</sup> The information and Complaint of Joseph Archer and Archer to John Burnett Esq., 28 Jan. 1832, A.O.T., C.S.O. 1/547/11913.

<sup>5</sup> P.P., XXII, (1837-8), Minutes of Evidence; P.Murdoch, 22 March 1838, p.123.

involved workers with occupations which implied a knowledge of livestock management.<sup>1</sup>

A theoretically safer way to deal with a real or perceived grievance was to appeal over the head of the master to higher authority. Unfortunately, this form of convict protest was rarely recorded in the conduct registers. Register entries were only made for cases where the bench which heard the complaint considered that the charges were so completely groundless that the very act of appealing constituted an offence in itself. Thus, Thomas Walker's record for 10 November 1826 reads, "Charging his Master Mr Whitaker with ill-using and beating him on Wedn<sup>y</sup>. last Oct<sup>r</sup> 8<sup>th</sup> in the afternoon". We know that Walker's appeal did not impress the magistrate as on the same day he was further charged with "Disob<sup>ce</sup>. of orders and absent<sup>g</sup>. himself from his Masters House". He was sentenced to 25 lashes and two months in an ironed gang.<sup>2</sup> Evidently, Walker had either asked his master for permission to see the magistrate and been denied or had taken unilateral action and walked off without attempting to obtain a pass. The disobedience of orders clause suggests the former. Like many convicts Walker found himself in the unenviable position of theoretically requiring his master's permission to pursue his complaint through the legitimate channels. The risk of proceeding without permission was considerable. If the complaint failed the convict was left wide open to a counter charge.<sup>3</sup>

Hirst has made much of the rights enjoyed by prisoners under the convict system.<sup>4</sup> The advantages of appealing to higher authority could be out-weighed by the potential pitfalls. At best, assignees could hope for a transfer to another property and have the satisfaction of seeing their former employee debarred from receiving further drafts of convict labour.<sup>5</sup> At worst, the complaint could be dismissed as "frivolous" and the tables turned (as appears to have occurred in Walker's case). As S.G. Foster has

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<sup>1</sup> James Child, per *Chapman* (2), No.642, trade, farmer's labourer, A.O.T. Con.23 and 31, 29 May 1829; John Fisher, per *Asia* II, No.237, trade: butcher and horse dealer, *Hobart Town Courier*, 26 June 1838, A.O.T. Con.31, 3 February 1832 and Thomas Hobley, per *Competitor*, No.494, trade Farmer, A.O.T. C.S.O.1/403/9109 and Con.31, 30 March 1831.

<sup>2</sup> It is possible to reconstruct tentatively the events around this incident. Walker's only other offence while assigned to Whitaker occurred just four days before. A seaman by calling, the former had been arrested in the street while intoxicated. He was confined in the cells for twenty four hours on bread and water and returned to his master. If Whitaker did beat Walker it may well have been in anger following the degrading experience of having to collect his assigned servant from police custody. Thomas Walker, per *Medina*, No.652, A.O.T. Con.31 6 and 10 November 1826. I.Brand, *Escape from Port Arthur*, (Jason Publications, West Moonah, Tasmania) p.67-68.

<sup>3</sup> Atkinson, 'Four Patterns of Convict Protest', pp.35-36.

<sup>4</sup> Hirst, *Convict Society and its Enemies*, pp.67-68 and 82.

<sup>5</sup> For an example of a relocation see the complaint of Benj. Davis, Thos. Lancaster, Patrick M'Guire and Michael M'Guire against "their employer, for not providing them with proper food, nor the means of preparing it." *Hobart Town Gazette*, 25 August 1821.

written, the number of complaints which received a favourable hearing almost certainly reflects the amount of attention focussed on the mechanism of assignment. The "sharp increase" in the proportion of servants withdrawn in New South Wales in 1838 is surely not unconnected with the establishment of the Molesworth Committee in the previous year. Foster concludes that overall hearings were more sympathetic to the master's cause and generally that those "with large convict establishments fared better than those who had only one or two in their charge".<sup>1</sup> Circumstantial evidence gathered in the course of this study tends to support these conclusions.

Following the apprehension of five bushrangers who had absconded from Major Donald McLeod's property, *Claggan*, the *Hobart Town Courier* noted that "They are all fine able young men, and complain bitterly of the treatment they had received previous to them taking the bush, and state that want of sufficient clothing and wholesome provisions together with harsh treatment, had caused them to abscond."<sup>2</sup> The *Colonial Times* responded in the following terms; "We cannot, however, help making one remark, that not withstanding the severity of their treatment, .. nothing can possibly excuse them taking to the bush, .. because we cannot suppose for one moment, that there is a Magistrate in the whole Island who would be so indifferent to his duty, as to refuse hearing their complaints, and of doing equal justice to the servants as well as to their masters."<sup>3</sup> William Stewart, one of the aforementioned "misguided men" appears to have had good grounds to disagree with this statement. According to the *Launceston Advertiser*, Stewart had lodged a complaint against his master only days before the outbreak. When he arrived before the bench his face was covered with blood and his body bore the marks of extensive bruising, evidently inflicted with a stick. The Deddington Parish magistrate, a Mr Walker, refused to believe Stewart's account that his injuries had been inflicted at the hands of Donald McLeod's eldest son, Alexander. Walker dismissed the case, ordered Stewart back to his master and told him to consider himself lucky that he had not received 50 lashes.<sup>4</sup> There appears to have been no enquiry.

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<sup>1</sup> S.G.Foster, 'Convict Assignment in N.S.W. in the 1830s', *Push from the Bush*, No.15, (1983) pp.60-72.

<sup>2</sup> *Hobart Town Courier*, 7 September 1829.

<sup>3</sup> *Colonial Times*, 8 September 1829.

<sup>4</sup> *Launceston Advertiser*, 14 September 1829. William Stewart per *Roslyn Castle*, No.986, A.O.T. Con.23 and 18/22. Donald McLeod was by Van Diemen's Land standards a large landowner. He owned a 2000 acre farm in Deddington Parish, *Claggan*, and another in the same size in Perth Parish, *Talisker*. Both had been granted on the 5 May 1827. *P.P.*, 'Crown Lands in Van Diemen's Land, 1836, XXXIX, (492.), 605:-p.19 and *T.S.G.* Deeds and Titles Office, 'Land Conveyance Registers 1827-1835'.

While it is difficult to judge the success rate of assigned servant appeals to higher authority, it is evident that even where servants were successful their actions only reinforced the fabric of convict society. Just as begging a master for forgiveness was to accept the legitimacy of workplace subordination, so the very act of lodging an appeal through the apparatus of the state implied acceptance of the conditions which bound the convict population in its servile relationship with authority.<sup>1</sup>

These examples of master servant friction were on the whole atypical. Most employers encouraged their convicts to identify their interests with those of their master.<sup>2</sup> This objective was achieved through incentive payments in cash and kind and promises of a favourable recommendation for government bestowed indulgences (for example, a ticket-of-leave). Indeed, prior to 1824, profit sharing schemes were a common feature of master servant relations. Even after this date, the law was frequently flaunted and it appears to have been common practice to distribute a share of the product to the most valuable workers. On the whole employers were keen to stress that kindness was the key to good convict management.<sup>3</sup> By kindness they meant that the ideal relationship between a master and his servants was that of dependents to the head of the household. It is wrong to suggest that the willingness of employers to manage through incentives demonstrates the weakness of their position. By accepting the indulgences bestowed, convicts acquiesced in a system of management which stressed the deferential relationship between the unfree and a master class. The fate of the convict was very largely in the hands of his or her employer and this was emphasised as much through the use of rewards as it was through the issue of threats. The convict's best defence was to try and impose their own set of values, hence their insistence that extra rations constituted a wage as opposed to an indulgence. Yet there were limits to the extent the point could be pushed. When one assigned servant told his master "he well earned all he ate", his master appeared startled and "rebuked him sharply for his base ingratitude".<sup>4</sup> Ultimately, the magistrate was there to remind the convict of the true nature of his employment contract.

Yet, on the whole, where disputes arose they were settled internally. Peter Murdoch claimed that he never brought a charge against his assigned servants (he employed between 14 and 17). When he was asked whether a great deal of punishment was

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<sup>1</sup> W.Nichol, 'Ideology and the Convict System in New South Wales, 1788-1820', *Historical Studies*, Vol.22,(1986)p.16.

<sup>2</sup> Genovese, *Roll Jordan Roll*, p.6.

<sup>3</sup> See for examples Shaw, *Convicts and Colonies*, p.220.

<sup>4</sup> Diary of James Cubbiston Sutherland, *A.O.T.*, N61/1, October 23 1824.

inflicted he replied, "Not a great deal, on settlers men, generally".<sup>1</sup> However, the payment of incentives to convicts and the unwillingness of masters to impose coercive restrictions on the movements of their labour force inevitably led to much disorder beyond the boundary of the employment location. This in turn led to the frequent prosecution of convicts by third parties. In this situation masters were relatively powerless and had to make assurances for a convict's future good conduct in order to retain the services of skilled workers. The unruly behaviour of convicts also reflected badly on the employers' ability to manage. The threat of losing all convict labour no doubt encouraged some masters to side with external prosecutors and recommend harsh punishments.

There is some evidence to suggest that masters were more likely to prosecute their own workforce for "neglect of duty". It has been suggested that this was partly an attempt to replace low-skilled workers with convicts possessing more immediately useful skills. Whereas masters were guaranteed a replacement for a worker demoted by a magisterial sentence there was no certainty that the replacement would be an improvement. While such dismissals served as an example to other workers, most employers could not be absolutely certain that the magistrate would consider the offence grave enough to relocate the worker. There is evidence to suggest that workers who had received a beating could be more troublesome than other employees. One word of caution should, however, be expressed. As it was often difficult to prove which convict, if any, had actively hindered production, employers may have been more ready to lay the blame with those who had good reason to bear a grudge. However, utter rejections of the hegemonic position of employers and other convict managers were rare, and where they did occur, they were severely dealt with. Convicts were more likely to address their grievances to their master, or occasionally to a magistrate. Such actions reinforced the hierarchical nature of both workplace organisation and convict society as a whole. While convict "petitions" and remonstrations could prove an irritation, their occurrence demonstrated that most convicts were prepared to settle for their rights under the conventions of the system. Although their interpretation of these "rights" differed from that of the managers', overall, it was the latter who were the victors. As the Superintendent of the Van Diemen's Land Company wrote to the directors: "The Company has few men assigned to it who are not well worth their maintenance...five out of six I believe are here converted into useful members of society as cheap labourers."<sup>2</sup>

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<sup>1</sup> *P.P.*, XXII, (1837-8), Minutes of Evidence, P.Murdoch, 22 March 1838, p.122.

<sup>2</sup> As quoted in Shaw, *Convicts and Colonies*, p.220.

By contrast, gang organisation, with its emphasis on high rates of supervision and negative incentives, was characterised by a very different set of management-employer relations. While attempts were made to encourage convicts to identify their best interests with the completion of the task in hand, the emphasis placed on coercive management techniques hindered this objective.<sup>1</sup> As we have seen, convicts were organised in gangs of nominally forty men, subdivided into mess units of ten. Each gang was worked separately and was constantly patrolled by an overseer, usually himself a convict. The overseer's job was to ensure that the gang maintained its rate of output. To this end he was encouraged to identify his well-being with the performance of his gang. Incentive payments were forthcoming when allotted tasks were completed within a target time and punishments were awarded where he failed to exert adequate control. Thus, Thomas Pearson, a government overseer was placed in the cells on bread and water for seven days for "Neglect of duty in sufferg the convicts belongg to the P{rison} B{arracks} to be disorderly at church".<sup>2</sup> Therefore, while it was important for superintendents to check up on their overseers, the age old problem of who monitors the monitor was largely solved by linking job security to gang performance.<sup>3</sup>

An overseer had the power to charge a convict with "malingering" or "idleness" if he thought a convict's action, or more appropriately inaction, merited further sanction as opposed to a warning. Magistrates were attached to all road parties and if corporal punishment was administered it was applied shortly after the committal of the offence and in front of the assembled gang. Road parties also had their own solitary cells. Where gangs were engaged in a long term project or were based at the prison barracks, these were built of stone. For parties in the interior portable wooden constructions were more common, if less effective. The primary function of these punishments was not so much to discipline the individual but to maintain the rate of production through regular example. While Hobart and Launceston based iron gangs were housed in the barracks, those employed on the roads were installed in horse drawn caravans in very cramped conditions. Backhouse and Walker considered this mode of working convicts a very severe punishment.

To be locked up from sunset to sunrise in... boxes used for this description of persons, which hold from 20 to 28 men, but in which the

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<sup>1</sup> Fast and efficient work was occasionally rewarded with indulgences. In 1834, 32 men were selected from the road parties to cut a new road alignment through the bush. They cleared a 30 mile path in five months and all were recommended for and received a ticket-of-leave. *Convicts and Carriageways*, p.132.

<sup>2</sup> Thomas Pearson, per *Commodore Hayes*, No.209, A.O.T., Con.31, 4 April 1825.

<sup>3</sup> Alchain and Demsetz, 'Production and Information Costs', p.782.

whole number can neither stand upright, nor sit down at the same time (except with their legs at right angles with their bodies,) and which, in some instances, do not allow them more than 18 inches in width for each individual to lie down upon on the bare boards; and to be marched out, and kept to a monotonous employment, under a strict military guard during the day, and also to be liable to suffer flagellation for even a trifling offence, such as an exhibition of obstinacy, that might be excited by the capricious conduct of an overseer, is truly a miserable state.<sup>1</sup>

Similar, if less cramped conditions prevailed for iron gangs in penal settlements. With other categories of labour in, or attached, to punishment gangs conditions were less severe but compared unfavourably with those experienced by assignees and public sector skilled production teams.

As can be seen from fig.4.9, as the use of positive incentives declined the proportion of convicts arraigned on malingering charges increased. Some attempts have been made to analyse malingering as a form of convict protest, nevertheless the success rate of such tactics is highly problematic.<sup>2</sup> Where groups of workers were tasked it may have been an effective form of individual action but would have caused ill-feeling amongst a convicts' co-workers. As men or women who successfully feigned sickness placed a greater burden on the other members of their team or gang they are unlikely to have received much support. Collective feigning had a very slight chance of success even when organised on a rotational basis. As Genovese puts it, "When, as usually happened, a few played the game well while others did not or could not, the advantage of the few became the disadvantage of the rest".<sup>3</sup> A general slow-down in the rate of output was easier to organise but relied on the co-operation of the whole gang. The individual shirker was easily detected and punished. The increased pick up rate for this offence would appear to be a two way process. As convicts were given less of a stake in the quality of the services performed, their inclination was to reduce their output accordingly. On the other hand, the convict managers understood the implications of reducing incentive payments. This is why they employed overseers as monitors. The rate of malingering tells both parts of the story. On the one hand the offence was almost certainly more prevalent where labour extraction techniques were not incentive orientated. On the other, the presence of monitors ensured that a higher proportion of malingerers were detected than at other levels of the convict system. To some extent we can go even further than this. By dividing each road party into small subdivisions and

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<sup>1</sup> *P.P.*, XLII, (1837-38), Copy of Despatch, Note (G) Testimonials by Messrs. Backhouse and Walker. p.26.

<sup>2</sup> W.Nichol, "'Malingering' and Convict Protest", *Labour History*. Vol.47 (1984), 18-27 and Connell and Irving, *Class Structure and Australian History*, p.47.

<sup>3</sup> Genovese, *Roll Jordan Roll*, p.620.

allotting each a task, managers could shift some of the burden of supervision on to the convicts themselves. If indulgences were granted for the early completion of each set project or quota, as was often the case, then the natural preference of convicts was to be placed in a gang where no one shirked. It is probable that under these conditions the convicts would either petition for the removal of a persistent malingerer or alternatively inform on the offender. In practice both amounted to the same thing.<sup>1</sup>

The common interest in non-shirking had one further spin off. It invoked a sense of team loyalty. Thus, as Alan Atkinson has indicated, some forms of collective protest were more likely to occur where there were concentrations of workers organised in gangs or teams.<sup>2</sup> Thus, while this construct encouraged a collective identification with the completion of allotted tasks, it could also lead to a total stoppage when gang members considered that either the objective set was unreasonable or that their working conditions were unacceptable. There is firm evidence that convicts in gangs did collectively down tools.<sup>3</sup> On the 2 October 1845 eleven men in the data set were charged with refusing to leave their barracks and commence work. All cases were located at Deloraine Probation Station. The roots of this dispute lay in a reduction in the ration and at least twenty-one convicts took part. Immediately prior to the stoppage an unknown number of men had absconded from the station with a quantity of supplies. The superintendent suspected that the other members of the gang had connived at the escape, although they claimed that they had been prevented from apprehending the absconders by a sub-overseer. The official response to the protest was to reduce the ration even further and extend the period of probation from between three to six months, an action which precipitated a mass "out break".<sup>4</sup>

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<sup>1</sup> Alchain and Demsetz, 'Production and Information Costs', pp.781 and 790-791 and R.Schlomowitz, 'Team Work and Incentives: The Origins and Development of the Butty Gang System in Queensland's Sugar Industry, 1891-1913', *Journal of Comparative Economics*, Vol.3 (1979), p.44.

<sup>2</sup> Atkinson, 'Four Patterns of Convict Protest', p.48.

<sup>3</sup> Nearly all authors of the period are agreed that convicts rarely engaged in collective action, (see in particular K.Buckley and T.Wheelwright, *No Paradise for Workers, Capitalism and the Common People in Australia 1788-1914*, (Oxford University Press, Melbourne, 1988) p.54. The evidence of this study is that like many aspects of the convict literature this view is misguided. By comparing the text entered into the registers, the date of the offence and the location of employment, forty five matching entries were located. These accounted for twenty-three incidents each involving at least two convicts. The small number of cases for which data was collected and the date span of the project, (offences were distributed over a period of twenty nine years), makes this discovery particularly striking. Unfortunately, the only way of establishing the full extent of collective convict action is to process every single offence entry for every year. This would be a truly mammoth task.

<sup>4</sup> Convicts in the data set are William Barnes, per *Marian* (1), No.12397, Joseph Bishop, per *David Clark*, No.2876, Michael Collins, per *Prince Regent* (2), No.3356, John Donovan, per *Lord Lyndoch* (3) No.955, Timothy Hopwell, per *Asia* (5), No.328, Martin Kearney, per *Sir Robert Peel*, No.245, Patrick Lawler, per *Emily*, No.14329, William Poole, *John Renwick*, No.9185, Patrick Riley, per *Emily*, No.14389, James Thompson, per *William Jardine* (1), No.14906, Charles Westcott, per *Cressy*, No.9772. all A.O.T. Con.33; *Launceston Examiner*, January 14 1846 and *H.T.G.*, October 14 1845.



In another case, three convicts in the data set downed tools while employed in the Bridgewater Road Party. Yet again there is no evidence that other convicts were involved in this protest but the management response indicates the action may have been widespread. All three received a comparatively light sentence. They were placed on short rations for one week, (however, Henry Smart pushed the point and was sentenced to 50 lashes for refusing to lodge in the cells).<sup>1</sup> Although little more than conjecture, and with the exception of Smart's continued protest, circumstances suggest that these men were not singled out as an example. A feature of collective protest is that it is difficult to punish. Individuals who refuse to bow to authority can be and were beaten in front of the gang, as Smart found to his cost yet again. When the majority of the gang is involved in coordinated action this exercise of power starts to become counter-productive. We have already seen in the previous chapter that the primary purpose of a beating is to set an example rather than to inflict pain. The usual management response is to award a fairly mild sentence to the majority of participants and attempt to identify and severely punish the ring leaders.

These stoppages had much in common with the appeals of assigned servants to higher authority. They were not a total rejection of convict society, but more usually a complaint against specific abuses. As Ullathorne stated, when convicts refused to work "...there are generally some circumstances connected with such a refusal; the men generally in such cases believe they have some grounds for complaint, or that they are worked at unreasonable times."<sup>2</sup> Their occurrence reinforces the general conclusion that prisoners had a strong notion of their "rights" as convict workers. Testimony of convicts who observed or participated in gang strikes indicates that they were usually targeted at fairly minor officials, principally overseers, but some times a station superintendent. They were often accompanied by a petition addressed to a visiting magistrate or, in the case of physical abuse, a surgeon. When Linus Miller was stationed in the Brown's River Probation gang the prisoners struck against an overseer who they claimed "was in the habit of robbing them of their rations". They accompanied their protest with a petition to a visiting magistrate. The latter instigated an investigation. The prisoners' charges were vindicated and the overseer removed.<sup>3</sup>

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<sup>1</sup> William Armitage, per *Persian* (2), No.404, A.O.T. Con.31, 5 March 1833, Hugh Graham, per *Persian* (2), No.705, A.O.T. Con.31, 5 March 1833 and Henry Smart, per *Argyle*, No.1363, A.O.T. Con.31, 5 and 9 March 1833.

<sup>2</sup> *P.P.*, XXII, (1837-8), Minutes of Evidence, Rev.W.Ullathorne, 8 February 1838, p.19.

<sup>3</sup> Miller, *Notes of an Exile*, p.301.

While convict narratives in particular, but the literature generally, place much stress on brutality of overseers,<sup>1</sup> in practice the latter's position was far from secure. Overseers were fired for the same reasons as they were dismissed by planters in the southern slave states. Their job was to extract labour as efficiently as possible. If they were considered too lenient, they were removed from office, but they could equally be dismissed for driving their charges too hard.<sup>2</sup> The line between the two extremes was precarious and convicts had plenty of scope to exploit the overseer's vulnerability. A stoppage coupled with a complaint was a powerful weapon, but sabotage was often equally as effective. When John Tait, Joseph Archer's overseer realised that his master wheat stacks were on fire he exclaimed, "damn your astonishment you Convict sons of Bitches see what you have done for me."<sup>3</sup> Tait and the convicts both knew who would have to answer to Archer first. Managers' primary interests lay in the rate of production. The overseer's welfare was of very secondary importance. If convicts could expose by petition and/or direct action the failures of the overseer's organisational technique, they could seriously erode his standing. Of course the risks were considerable. According to William Gates, overseers had their own methods of inflicting retribution: "There are numberless ways by which the overseer can vent his spite on his victim - as, compelling him to do with a poor tool as much as another with a better one, - making his task heavier, or putting him into muddy places, or into the worst positions".<sup>4</sup>

As with other forms of convict protest, achieving the dismissal of an overseer would rate only as a partial victory. The convicts could use the latter as "a conducting rod for their dissatisfactions", yet as Genovese observes of slaves, they were not attacking the power "responsible for their condition".<sup>5</sup> Indeed, the removal of an overseer could only be effected by a senior free official. It was through the intervention of the latter that the convict's lot was ameliorated. As with so many other aspects of the system, this only reinforced the paternalist structure of convict society.<sup>6</sup> The effect of this could be quite startling. The Superintendent at Port Arthur, G.W. Courteray, complained to Governor Denison in 1848, that the prisoners seemed to have no comprehension that their lot could be ameliorated by any lesser being than the Station Commandant. The truth was

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<sup>1</sup> See for example Gates, *Recollections*, p.71.

<sup>2</sup> Genovese, *Roll Jordan Roll*, pp.14-15.

<sup>3</sup> Examination of James Slaughter, A.O.T., C.S.O. 1/547/11913.

<sup>4</sup> Gates, *Recollections*, p.57-58.

<sup>5</sup> Genovese, *Roll Jordan Roll*, p.21.

<sup>6</sup> Atkinson, 'Four Patterns of Convict Protest', p.48.

that the convicts had learnt to play the system to their best advantage by nominally Kow-towing to the local font of paternalism.<sup>1</sup>

On the whole it is difficult to judge how widespread collective protests were and with what frequency they met with success. As in individual complaints about masters, where convicts were entirely successful no entry was made in the offence registers. Thus, even a total survey of all offences would only provide an indication, rather than an actual assessment, of their occurrence. Where examples of collective action can be pieced together, the offence data provides no indication of whether convicts achieved partial success. That punishment was awarded does not necessarily mean they failed in their objective. As we saw from the Deloraine example, failure could result in more desperate forms of protest, in this case a mass absconding. Likewise, William Gates reported a planned attack on an overseer his gang had despaired of removing by other means. Lots were drawn to select two convicts to carry out the assault and the station carpenter manufactured bludgeons to perform the job.<sup>2</sup>

The resort to weapons was not uncommon, although usually the items employed were those most readily at hand. John Smith, for example, struck his overseer with a hammer while employed in the Grass Tree Hill ironed gang.<sup>3</sup> Some convicts appear to have resorted to violence more than others. Henry Smart was charged four times with attacking officials and informers. His first offence in the colony was striking his master and knocking him to the ground for which he was sentenced to six months hard labour and imprisonment. On April 8 1833, he and an unspecified number of other convicts were charged with "Assaulting and knocking down Hugh Graham a witness against them in proceeding charge."<sup>4</sup> On 18 May of the same year he was found guilty of "Knocking Down and Kicking Wm. Norris the Gangsman" and sentenced to the Richmond Chain Gang for 11 months. Finally, on 3 March 1835 he was charged with "Insubordinate conduct in Violently assaulting his overseer "Henry Cook" & knocking him down and kicking him on the ground", an act which earned him a three year extension and a trip to Port Arthur.<sup>5</sup> What makes Smart's case even more interesting is that he was twice charged with refusing to work, once on the same day and in the same

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<sup>1</sup> *P.P.* Vol. XLIII, (1849) Papers Relative to Convict Discipline, Enclosure 3, p.40.

<sup>2</sup> Gates *Recollections*, p.64.

<sup>3</sup> John Smith, per *Mangles*, No. 2045, A.O.T., Con.31, 18 November 1836.

<sup>4</sup> In all 1703 offences this is the only one of three that indicate that other convicts were charged along with the defendant. Unfortunately no further information is supplied about the informer, Hugh Graham. Was this the same man who had previously participated in a strike with Smart? One can only speculate, but that Hugh Graham was certainly stationed at a road party in April 1833 where he was employed as a watchman. Hugh Graham, per *Persian*, No.705, A.O.T. Con.31.

<sup>5</sup> Henry Smart, per *Argyle*, No.1363, A.O.T. Con.31.

location as two other prisoners in the data set. Smart would appear to be one of those dangerous and exceptional prisoners who tackled the system head-on.

As we have already seen convicts appear to have been particularly sensitive to cuts in their ration. William Green complained bitterly of conditions at Port Arthur at his Supreme Court trial. Arraigned on a charge of being illegally at large in arms, he insisted that the "superintendents and gaolers" robbed prisoners of their rations to feed their livestock. He continued, "I can prove that we do not get anything like our regular ration of bread, which goes to feed these animals."<sup>1</sup> William Gates reported that similar conditions prevailed at Green Ponds Probation Station four years earlier.<sup>2</sup> While one way to redress such real or imagined grievances was to appeal to higher authority or organise collective action, another was to "steal". As the ration formed a key element of the convict wage its increase or reduction was one of the principal means of controlling the severity of labour. While convicts regarded supplementing their diet at their employer's expense as fair game, management attitudes were ambivalent. While in assigned service employers tended to turn a blind eye, in the punishment grades and probation stations a different attitude prevailed. The theft of commodities which supplemented the convicts' maintenance undermined the principle of punishment through workplace coercion. Thus, when detected it was severely dealt with.

A great deal of this theft would appear to have been committed out of want. In this respect road and ironed parties, differed from penal stations. Much of the evidence suggests that the convict system's own internal maintenance service was simply not up to the task of supplying the road parties with an adequate provision of clothing. The standard road party clothing issue was trousers and jacket, hat, two cotton shirts and a pair of shoes. These were replaced once a year. The nature of the work was such, however, that convicts frequently wore out their issue long before the replacement date. Shoes appear to have been more susceptible to damage than other items.<sup>3</sup> As William Gates recalled, "Many of our number were without shoes, and underwent very much...My own proved a worthless pair and were soon gone."<sup>4</sup> Backhouse and Walker reported that to some extent this was due to a knock-on effect. "Many prisoners are sent to the chain-gangs and Road-parties, almost destitute of clothing; and arriving

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<sup>1</sup> Trial of William Green, per *Sesostris* (N.S.W.) and *Marian Watson* (V.D.L.) No.1757, *True Colonist*, 15 March 1844 and A.O.T. Con.35/1.

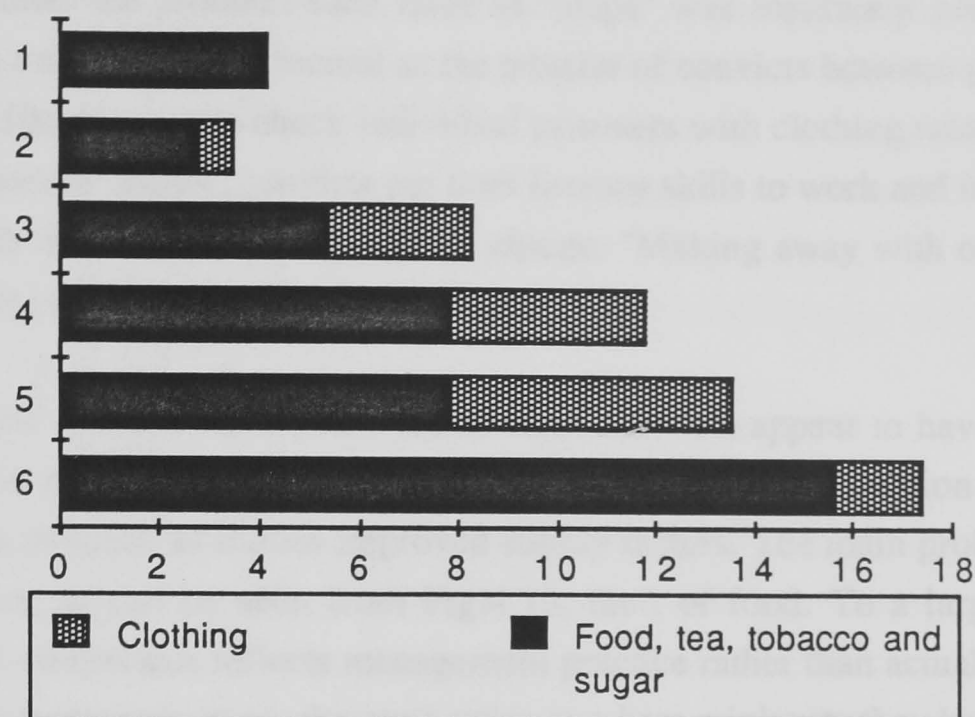
<sup>2</sup> Gates, *Recollections*, p.67.

<sup>3</sup> Backhouse, *A Narrative*., Appendix E, 'Extract from a Report, on the State, of the Chain-Gangs and Road-Parties in Van Diemen's Land', p.xliv.

<sup>4</sup> Gates, *Recollections*, p.59.

Fig.4.10

**Convicts arraigned for theft, receiving, trafficking or unauthorised possession of food, tea, sugar, tobacco and clothing**



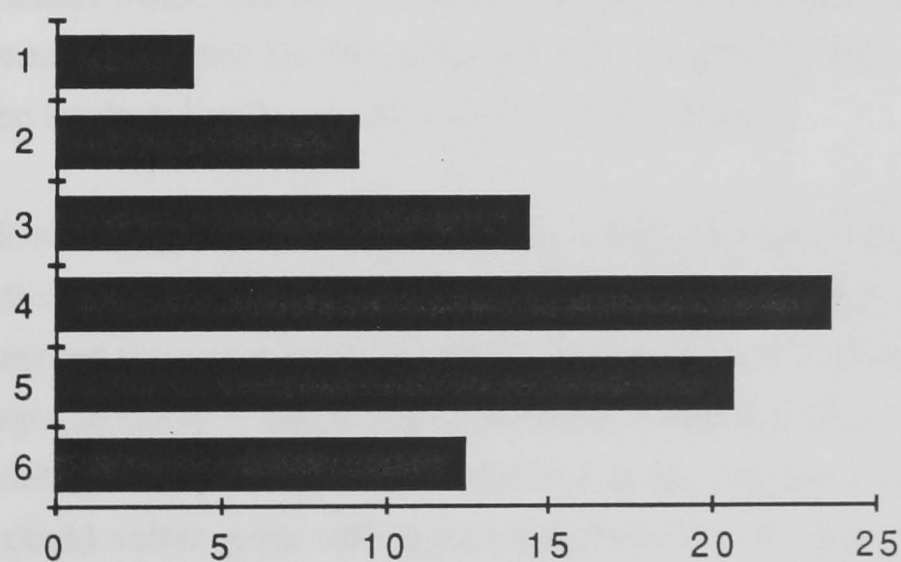
Expressed as a percentage of all offences committed in each category of labour.

1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.

Sources: A.O.T.. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

Fig.4.11

**Convicts arraigned for absconding**



Expressed as a percentage of all offences committed in each category of labour.

1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.

Sources: A.O.T.. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

after the regular time of supply, they remain long, almost in a state of nudity."<sup>1</sup> As can be seen from Fig.4.10, this deficiency appears to have led to widespread theft. In an effort to counter the problem each issue of "slops" was separately numbered. This solution was only partially effectual as the transfer of convicts between gangs made it extremely difficult to cross check individual prisoners with clothing issue records. To further confuse the matter, convicts put their literacy skills to work and inscribed their clothing with false numbers.<sup>2</sup> Hence the charge, "Making away with or altering his Govt. Clothes issued to him."<sup>3</sup>

At Port Arthur and the other penal settlements, convicts appear to have been better clothed. This reflects the emphasis placed on the local production of essential commodities as much as it does improved supply factors. The main problem in these localities was, as can be seen from Fig.4.10, theft of food. To a large extent the frequency of committals reflects management practice rather than actual shortages of supply. In their attempts to cut the gang ration to a bare minimum they had to expend a great deal of time and effort in curbing the access of prisoners to other food supplies. This could prove difficult as much of the ration was produced and/or processed locally by teams of promoted convicts. Thus, the rate of theft in penal settlements is inflated not only by the increased rate of supervision but also by the creation of a whole category of offences which did not apply in other locations. Convicts who were found with a piece of bread outside the mess hall were assumed to have stolen it.<sup>4</sup> Likewise, those that collected the potato peelings slung out the cook house window, were also prosecuted. As Linus Miller put it; "I have no hesitation in asserting that at least one half of the crimes committed by the prisoners and for which they are so severely punished, may be attributed to the insufficiency of their rations".<sup>5</sup>

But the clamp down on the ration had other effects which are very difficult to measure. At all levels of the convict system prisoners, sometimes aided and abetted by free men and women, managed their own black economy. At Port Arthur, trafficking flourished despite all attempts to stamp it out. It is difficult to calculate the effect that this had on the prison population itself, but men who laboured in punishment gangs had little to trade with and could suffer great self-imposed deprivations in their desire to obtain contraband. John Russell, assistant surgeon with the 63rd. Regiment was questioned

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<sup>1</sup> Backhouse, *A Narrative*, Appendix E, p.xliv.

<sup>2</sup> *Convicts and Carriageways*, p.133.

<sup>3</sup> See for example, Alexander Reid, *Isabella*, No.937, A.O.T. Con.31, 12 April 1837.

<sup>4</sup> Evans (ed.) *Regulations for the Penal Settlement at Port Arthur*, p.18.

<sup>5</sup> Miller, *Notes of an Exile*, p.284.

about the management of prisoners at Port Arthur by the Molesworth Committee. When asked whether the convicts found "being deprived of tobacco a great privation?", he answered, "Yes, very great indeed; I have known a man give another, for permission to smoke his pipe a few minutes, the greater part of his day's rations".<sup>1</sup> Convicts in gangs could also find that their rations were misappropriated by other workers. Martin Cash reported that "three parts of the flour is purchased from the cook by the overseers..and a modicum of the remaining portion is absorbed in .. cakes to be distributed in the shape of bribes to the sub-overseers and watchmen who may be privy to their mode of traffic".<sup>2</sup>

Thus, as one might expect, many of the convicts arraigned for theft offences in penal stations and road parties were attached to production units. For example, Patrick Riley was charged with taking meat from the boilerhouse where he was employed as cook,<sup>3</sup> while George Bretton was twice charged with removing boots and shoes after being promoted to the Port Arthur shoemaker's shop.<sup>4</sup> Other skilled workers used their access to government materials for their own advantage. Although "privately working" was not a frequent charge (it accounted for just 0.6 percent of all offences) individual entries provide support for the observations of contemporary observers of the convict system. William Gates, in particular, wrote a scathing account of the private trade in government labour and materials.<sup>5</sup> A typical offence was committed by John Gregory, a sawyer and carpenter employed in the lumber yard at Macquarie Harbour, (see Plate 2). He was caught sawing up government timber with the purpose of illicitly disposing of it.<sup>6</sup> Thus, even in penal stations the means existed to generate income.

According to eye witnesses, the comparatively high proportion of convicts charged with being absent from road parties was a factor not unconnected with the operation of the convicts' own economy (see Fig.4.6). Backhouse and Walker approved of measures to restrict the use of convicts' free time, (that is Saturday afternoon and Sundays). "Attention to prevent persons in these gangs, and road-parties from earning money, by employing the time allowed them for washing their clothes, &c. in the

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<sup>1</sup> *P.P.*, XXII, (1837-8), Minutes of Evidence, J.Russell, 19 February 1838, p.52. Russell does not throw any light on how tobacco was smuggled into the settlement. It is possible that it was supplied illegally by free officials or given as an unofficial indulgence to skilled workers employed at the shipyard and at other key production units. Otherwise suspicion must fall on the boat crew who had a great deal of contact with the crews of supply vessels.

<sup>2</sup> Cash, *Martin Cash the Bushranger*, p.57-58.

<sup>3</sup> Patrick Riley, per *Emily*, No.1890, *A.O.T.*, Con.33, 13 September 1845.

<sup>4</sup> George Bretton, per *York* (2), No.1767, *A.O.T.*, Con.31, 6 May 1835 and 15 August 1836.

<sup>5</sup> Gates, *Recollections*, p.71.

<sup>6</sup> John Gregory, per *Lord Hungerford*, No.271, *A.O.T.* Con.31 and C.S.O.1/403.

service of settlers, or other persons, has had a beneficial effect. Before this measure was carried into operation, the money which some of the prisoners earned, was a bonus to them, to bear the privations of their situation..". Yet, they still thought it necessary to comment later in their report that "Great evil arises from a half-day being allowed in a week, for washing and repairing clothes".<sup>1</sup> Prisoners completed these tasks in a short amount of time and employed the surplus hours for their own benefit. As late as the early 1840s, William Gates reported that he had little difficulty slipping away from his probation gang after Sunday morning muster. He would work for a neighbouring settler who paid him in tea, sugar, tobacco and flour. As long as he returned before the evening roll call there was little chance of detection.<sup>2</sup> Nevertheless the returns show that many were caught. George Bretton, for example, was discovered absent between the hours of 11 pm and 1 am. In his defence he stated "I went not more than 200 yards from the huts to catch a few kangaroos. We work hard all day and cannot make our rations do".<sup>3</sup> A "few kangaroos" would have provided Bretton with a lot more than an immediate food source. Thus, some opportunities existed for men stationed in road gangs to obtain goods to supplement their diet and to barter for other commodities. Obviously, it was difficult to engage in such activities when weighed down with leg irons and next to impossible in the isolation of Macquarie Harbour and Port Arthur. However, 12 percent of all charges recorded for penal stations included an absent without leave clause. To a large extent this reflects the nature of the sites. Much space was enclosed within the perimeter and prisoners, especially those employed in production and maintenance units, could and did attempt to communicate across the settlements during work hours and after curfew. Indeed, trafficking in goods required such internal movement. As the Superintendent at Port Arthur described in the late 1840s, the unofficial activities of many of the officers encouraged them:

The labour of the convicts was made productive by farming gardens for the officers to sell fruit, and by the shops of the mechanics being turned into a market where everybody could get work done at half price. Since I came here, a card was sent from another station that a name might be engraved. The boats crew were employed to take parties shooting or fishing, or to bring visitors from the railroad; the sub-constables and sub-overseers were employed to do work which the officers ought to have done. One man was sexton of the church, i.e., groom to the Protestant clergyman, and to make things square, the (R.C.) clergyman had a man of the same sought.<sup>4</sup>

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<sup>1</sup> Backhouse, *A Narrative*, Appendix E, pp. xli-xlii.

<sup>2</sup> Gates, *Recollections*, p.67.

<sup>3</sup> George Bretton, per *York* (2), No.1767, A.O.T., Con.31, 4 December 1833, (Bretton was given 50 lashes). See also P.MacFie, 'Dobbers and Cobbers; Informers and Mateship among Convicts, Officials and Settlers on the Grass Tree Hill Road, Richmond, Tasmania', manuscript (1985) p.11.

<sup>4</sup> *P.P.* Vol. XLIII, (1849) Papers Relative to Convict Discipline, Enclosure 3, p.40.



The convicts who held official positions represent the other end of the trade. William Ashton, a bricklayer, was given 25 lashes for bribing three convicts in the hospital gang to work for private individuals.<sup>1</sup> Samuel Newman, a constable, was caught employing a blacksmith to work for him in government time and using government fuel.<sup>2</sup> On closer examination, other cases not actually specified as privately working appear to fall into the same category. George Durbridge committed two offences while employed as a messenger which illustrate important aspects of the functioning of the top echelons of the convict system. He was first pulled up for "conveying a message in the Public Streets from a married Woman named Forbes to John [Jenkins?] a prisoner under sentence to hard labour on the roads." Three months later he was discharged from his office and sent to a road gang for six months for "keeping a disorderly house".<sup>3</sup> Finally, John Mortlock recalled:

I have a vague recollection of being then employed, gratis, for a few days, as a messenger, and of meeting the Governor in the street, when my arms were full of loaves of bread and packets of tea and sugar, purchased on commission for some "Tench" (penitentiary) mechanics at work in the Royal Engineer Yard, and wishing the earth to open and swallow me".<sup>4</sup>

All the indications are that convicts occupying administrative positions or located in skilled production units took advantage of the relative freedoms of their employment conditions to provide a service for private individuals and other convicts. It is evident that many of the offences recorded under the broad heading of theft were actually connected with the operation of a black economy.

Whereas in the higher echelons such abuses could be tolerated, in penal stations and on the roads they presented the convict managers' with a dilemma. While the traffic in government materials was wholly undesirable station officials faced the same problem as private employers. Production teams could have been more effectively monitored, but this would have proved counter-productive. Providing supervision for small groups of workers was neither cost effective nor compatible with the performance of care intensive tasks. In any event such measures would not necessarily have cured the problem. Even when overseers were not actively involved many turned a blind eye

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<sup>1</sup> William Ashton, *Indefatigable* (2) (NSW) and *Ruby* (VDL), No.4, *Hobart Town Gazette*, 12 July 1828, A.O.T. Con.22/1 and Con.31.

<sup>2</sup> Samuel Newman, *Medway* (2), No.217, A.O.T. Con.31 and C.S.O. 1/178/4320.

<sup>3</sup> George Durbridge, per *Layton* (2), No.1064, A.O.T. Con.31, 3 July and 8 October 1840.

<sup>4</sup> Mortlock, *Experiences of a Convict*, p.92.

when to do so was made worth their while.<sup>1</sup> It is apparent that those who suffered the most were the men in the gangs. It was their rations which were purloined and they possessed little other than bare essentials with which to barter. What is remarkable is that this pattern did not lead to widespread inter-prisoner violence, see Fig.4.7. It appears that the risks associated with the private settling of vendettas were considerable. Governor Arthur in particular stressed the need to keep the more "ferocious" prisoners from tyrannizing the fellow members of their gang and overseers and superintendents were instructed to root out anti-social behaviour.<sup>2</sup> Besides, there were other opportunities for convicts to settle the score. Inter-prisoner tension found its outlet through the practise of "dobbing". This was a particularly effective method of dealing with corrupt overseers. Gang protests against short rationing undoubtedly did more to curb the misappropriation of rations than the posting of extra monitors. The public remonstrations of prisoners not only brought supervisors to account, but forged unexpected relationships between overseers and their charges. As Genovese says of slaves;

"The overseers .. knew that they would not keep their jobs without some degree of support in the quarters, and accordingly, they tried to curry favor. No sensible slaveholder wanted a man who could not maintain a certain level of morale among the slaves. Thus, the slaves had an opening. They knew it, and they seized it."<sup>3</sup>

While the characterisation of the overseer as a swaggering brute is a staple of the convict literature, the reality was far more complex.<sup>4</sup>

Finally, the last option open to convicts was to escape. Fig.4.11 demonstrates that the pattern of absconding appears to vary according to the method of workplace organisation. In particular we should note that this charge accounted for a larger proportion of offences detected in road gangs than at any other work location. While contemporary testimony supports the assumption that there was little to stop a convict bolting from a road party (other than the threat of reprisal)<sup>5</sup> it is natural to assume that

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<sup>1</sup> J.Frost, *A Letter to the People of Great Britain and Ireland on Transportation; Showing the effects of Irresponsible Power on the Physical and Moral Condition of Convicts*, (n.p., n.d.) 2nd edition, p.13.

<sup>2</sup> *Convicts and Carriageways*, p.133.

<sup>3</sup> Genovese, *Roll Jordan Roll*, p.15 and M.Craton, *Testing the Chains, Resistance to Slavery in the British West Indies*, (Cornell University Press, London, 1982) p.41.

<sup>4</sup> As Joseph Melling observes, most supervisory workers have to grapple with the contradictions of the middle ground: "The supervisor is caught between the demands for maximum output and the need to maintain social relations with those under him, between accumulation and legitimation." J.Melling, 'Non-Commissioned Officers': British Employers and their Supervisory Workers, 1880-1920', *Social History*, Vol.5, No.2 (1980) p.191.

<sup>5</sup> Backhouse, *A Narrative*, Appendix E, p.xlii.

leg irons and penal stations placed considerable impediments in the path of the would be absconder. Yet, even in chain gangs and in the isolated settlements of Macquarie Harbour and Port Arthur the convicts in this sample managed to escape the supervision of their gaolers and move out beyond the perimeters of their place of employment. For convicts in irons this was no mean feat. In all, over eight percent of offences recorded in chain gangs involved tampering with or destroying leg irons.<sup>1</sup>

Absconding presented the colonial authorities with a continual problem. Despite the introduction of full descriptive records in the *Hobart Town Gazette* in 1816 and a pass system, established in the following year, keeping convicts within specified locations remained a near impossible task. The motives for running were obviously complex and varied from convict to convict. This analysis will tentatively investigate some of the factors involved. The first observation which should be made is that the distribution of this offence strongly suggests that 'push' factors were more important than 'pull', a conclusion supported by the testimony of Peter Murdoch who was employed as Superintendent of the Emu Plains punishment party, New South Wales. Murdoch acknowledged that the rate of absconding was high amongst prisoners under his charge and that most headed for Sydney "in hope of ameliorating their condition".<sup>2</sup> In this respect, absconding differed from absenteeism, see Fig.4.12, which displayed a different distribution. Convicts who were charged with being absent appear to have balanced the risk, receiving a comparatively mild punishment against the opportunity to exercise a degree of freedom over their time and income disposal. Yet, while absenteeism appears to have been prevalent wherever workers had the opportunity to slip away, it was commonplace where 'pull' factors (bars, brothels, shops, etc.) were in close proximity to the work place. The opportunities to "walk off the job" tended to be most widespread in just those locations where the potential rewards of slipping away were greatest. As far as it is possible to attribute motives, convicts absconded from road gangs not because their working conditions gave them the opportunity to do so, but because the latter were harsh enough to induce a total rejection of the labour extraction process.

There are some similarities between this pattern and that established by Salinger. The latter concludes that indentured servants in Pennsylvania were more likely to run away from rural than urban locations, a finding which was supported by an occupational analysis of runaways. This reflected the distribution of skills between urban and rural

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<sup>1</sup> The favoured technique was to distort the ring of the iron into an oval and force it over the ankle.

<sup>2</sup> *P.P.*, XXII, (1837-8), Minutes of Evidence, P.Murdoch, 22 March 1838, p.113.

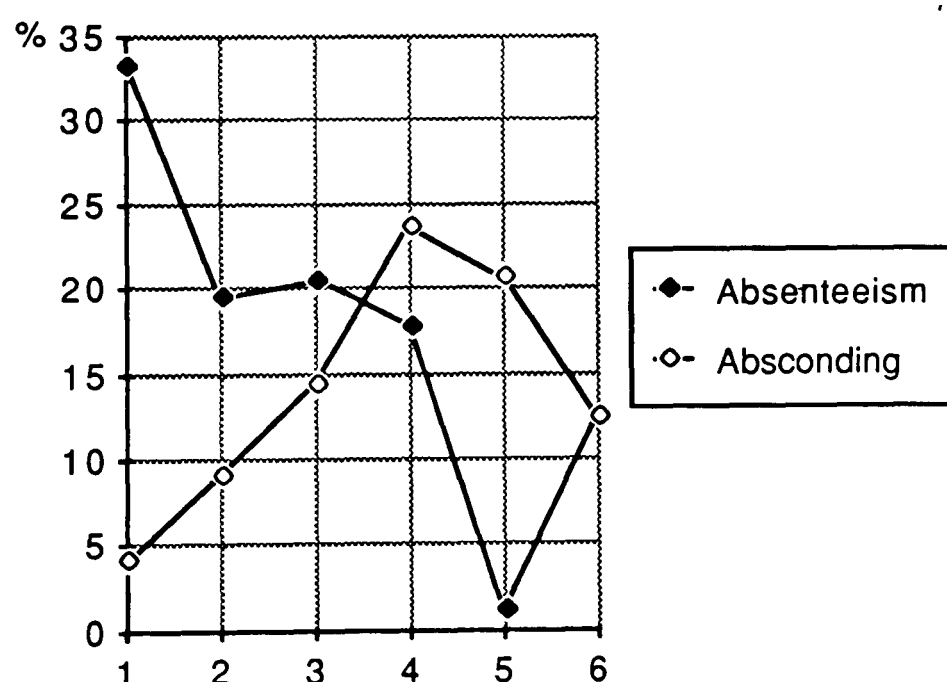
**Table 4.4 Occupational breakdown of convict absconders from road parties, ironed gangs and penal stations**

Skill classification	1	2	3	4
Unskilled urban	41	22	34.2 %	20.9 %
Unskilled rural	6	4	4.4 %	12.0 %
Skilled and semi-skilled building	15	10	12.5 %	9.8 %
Skilled and semi-skilled urban	43	27	35.8 %	42.7 %
Skilled rural	9	6	7.5 %	7.6 %
Middling	0	-	0.0 %	0.9 %
Professional	0	-	0.0 %	0.4 %
Domestic Service	6	4	5.0 %	6.3 %

1 = Number of abscondings  
2 = Number of individual absconders  
3 = 1 as a percentage of all absconders  
4 = Percentage of occupations in the data set

Sources: A.O.T.. Con.18, 23, 31, 32, 33, 35, 37 and 78;  
A.O.N.S.W. Convict Indents; P.R.O. H.O. 10/43

**Fig.4.12 Comparison of convicts arraigned for absenteeism and absconding**



Expressed as a percentage of all offences committed in each category of labour.

1=ticket of leave, 2=assigned, 3=public works, 4=road parties, 5=ironed gangs, 6=penal settlements.

Sources: A.O.T. Con.31, 32, 33, 35, 37 and 78. P.R.O. H.O. 10/43

sectors of the economy. As we might expect, employers were inclined towards the use of negative incentives where the skill capacity of workers was low and positive incentives where the opposite was true. Most skilled indentured servants were contracted to master craftsmen and were employed in artisan production units.<sup>1</sup> Rural workers were employed in much heavier work, were coerced rather than "bribed" and reacted accordingly.<sup>2</sup> An occupational analysis of absconders revealed that unskilled urban convicts were indeed more likely to run from punishment gangs than skilled men (see Table 4.4). To a large extent this reflects the occupational composition of the gangs themselves. T.L.Mitchell, the Deputy Surveyor General of New South Wales, thought that road gangs were on the whole composed of "people whom no settler wished to employ".<sup>3</sup> Yet, it can also be seen from Table 4.4 that there are dangers in exaggerating the position. Although under-represented compared to their distribution in the sample, skilled and semi-skilled workers were still prominent amongst bolters from labour gangs. While it would appear that a disproportionate number of low-skilled convicts were employed on the roads and in penal stations, they were joined by many other convicts who, in the absence of disciplinary considerations, could have been placed in more constructive locations.<sup>4</sup>

Absconding appears to have been especially prevalent when road parties received short supplies of stores. Backhouse and Walker thought that the practise of issuing provisions on a weekly basis was likely to lead to absconding. While they were anxious to point out that possession of a quantity of food facilitated escape attempts, they also observed that in order to stop their ration spoiling or being stolen, convicts consumed their allowance soon after receipt. They reported that they had good evidence that at least one group of absconders from the Constitution Hill Road Party "were

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<sup>1</sup> S.V.Salinger, *"To Serve Well and Faithfully", Labor and Indentured Servants in Pennsylvania, 1682-1800*, (Cambridge University Press, Cambridge, 1987) p.113.

<sup>2</sup> There may be some similarities between slave and convict flight patterns. It is now well established that in many slave societies the incidence of flight is linked to the crop cycle. It is possible that slaves, like convicts, resorted to running in an attempt to escape the rigours of heavy supervised manual labour. Gaspar, *Bondmen and Rebels*, p.208 and Genovese, *Roll Jordan Roll*, p.649. However, an analysis of the annual cycle of flight failed to demonstrate that assigned servants were more likely to bolt during the harvest. The size of the data set and the restricted information on the occupation of employers meant that it was impossible to run a separate analysis for rural assignees only. It may well be that on the larger Midland properties where the harvest was gathered with gang labour, convicts adopted tactics similar to slaves.

<sup>3</sup> *P.P.*, XXII, (1837-8), Minutes of Evidence, Major T.L.Mitchell, 1 March 1838, p.75.

<sup>4</sup> No parallel was found between the occupational distribution of convict absconders and runaway slaves. Both Mullin and Heuman found that skilled slaves were more likely to abscond than unskilled (although the data is open to the obvious bias that masters are more likely to advertise for missing skilled workers) G.Heuman, 'Runaway Slaves in Nineteenth Century Barbados', in L.J.Archer (ed.) *Slavery and other forms of unfree labour*, (Routledge, London, 1981) p.210 and G.R.Mullin, *Flight and Rebellion: Slave Resistance in Eighteenth Century Virginia*, (New York, check publication and date) pp.36-38.

driven to this extremity, by hunger succeeding .. imprudent consumption..".<sup>1</sup> There are other indications that misappropriation of rations could lead to an increase in the rate of absconding. Yet, as we have seen, there is evidence that convicts would first attempt to address perceived grievances through other channels where the opportunity existed. The decision to abscond was a desperate one. Convicts appear to have been reluctant to embark on this course until all other avenues of redress had been explored.

There is some evidence that absconding convicts who could perform skilled jobs were harboured by private employers. When James Atterall made a successful break from the Grass Tree Hill Road Party he managed to find employment as a bricklayer working for a Mr. Bales at Auburn on the Macquarie River. Presumably not too many questions were asked about the new employee who managed to pass successfully under the name of George Thompson, free by servitude.<sup>2</sup> The magistrate, A.W.H.Humphrey stated in 1827 that settlers regularly employed convicts who were illegally at large and that he was currently proceeding against several employers charged with harbouring.<sup>3</sup> It is also apparent that runaways were aided by other convicts. The literature has stressed the frequency with which convicts informed on their fellow prisoners and it is undoubtedly true that many absconders were turned in by convicts seeking financial rewards and indulgences. The mounted police, whose primary function was to track runaways, was indeed staffed by convicts. Yet, the data indicates that tacit or active support was not uncommonly provided as well. When on the 23 April 1823 seven prisoners attempted to abscond from Macquarie Harbour at least two convicts were charged with refusing to assist in their capture.<sup>4</sup> Three assigned servants, John Gibson, John Morton and James Cowden were convicted on the 27 April 1829 of harbouring John Denner and Frederick William Chapman, convicts illegally at large. The former were all employed at the farm of Major Donald McLeod. While it has not been possible to establish who all McLeod's assignees were, further investigations reveal that at least one other, Thomas Jones, was charged with the same offence.<sup>5</sup> In all, a further four convicts in the sample were charged with harbouring escapees and two with assisting prisoners to abscond.

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<sup>1</sup> Backhouse, *A Narrative*, Appendix E, p.xlii-xliv.

<sup>2</sup> James Atterall, per *Arab* I, No.633, A.O.T., Con.18/3 and *Hobart Town Courier*, June 8 1838. Atterall's Indent lists his trade as a bread and biscuit baker. It says much for the mobility of labour both in nineteenth century Britain and under the convict system that he could successfully masquerade as a bricklayer.

<sup>3</sup> H.R.A., Ser. III, Vol. V. p.650.

<sup>4</sup> Henry Williams, per *Richmond*, No.388 and James Crawford, per *Prince Regent*, No.258, both A.O.T. Con.31.

<sup>5</sup> Thomas Jones, per *Arab*, No.198, A.O.T. Con.78 and 'Register of passes to travel granted to Convicts in the North: Sep.1828-Jan.1833, Con.81.

Not surprisingly, those convicts who attempted to quit the colony altogether were composed largely of men with nautical skills. George Smithers a waterman from Wandsworth was the most successful. He spent two years in the Hobart Marine Department before securing an early departure on a French Sloop. He was again arrested and tried at the Central Criminal Court, London in 1842 for returning from transportation and sentenced to a second stint to Van Diemen's Land. While his London gaol report recorded that he "affected a disposition to destroy himself..", he did eventually escape Van Diemen's Land for good. His offence record ends with the words "Abscond. 18/2/58 Never Caught."<sup>1</sup> John Thompson, a sailor, embezzled his slop clothing before trying to smuggle himself on board a ship at Hobart. He was detected but repeated the exercise 14 days later and was given 50 lashes and sent Macquarie Harbour.<sup>2</sup> Finally, John Thomas, described in his indent as a labourer but later employed in the Port Arthur boat crew, was found stowed away on the *Petula* Whaler in August 1831. Not deterred by his twelve month sentence to a road party, he escaped from the Bridgewater chain gang a year and a half later with Thomas Walker, a sailor. They were discovered concealed on board the barque *Marion* and were duly charged with attempting to escape the colony, sentenced to receive 100 lashes and removed to Port Arthur. This was Walker's second attempt at escape. He had previously been detected "secreted on board the barque *Clarence* when on the eve of sailing for England" for which he received 150 lashes. Just to complete the picture, John Thomas made yet another bid for freedom in 1836. This time he was apprehended on board the barque *Eldon*, given a three year extension to his sentence and removed to Port Arthur.<sup>3</sup> Such was the prevalence of this method of escape that from an early date all shipping had to be searched before leaving port. There are strong indications that either ships masters and/or crew connived at attempts to stowaway.

#### IV

To summarize, the organisation of the convict system was extremely complex and this is reflected in the wide disparity of convict experience. As one might expect individual convicts reacted in different ways to the variety of management techniques employed. Even when placed in similar situations, some prisoners reacted defiantly while others appeared resigned to their fate. Men like William Davis took the system on and suffered the consequences. A seaman by trade, Davis arrived free but was convicted at the

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<sup>1</sup> George Smithers alias James King, per *Gilmore* 3, No.9428 A.O.T. Con.33.

<sup>2</sup> John Thompson, per *Claudine*, No.171, A.O.T. Con.23 and 31, 22 August and 5 September 1823.

<sup>3</sup> John Thomas, per *Sir Charles Forbes*, No. 495 A.O.T. Con.23 and 31 and Thomas Walker, per *Medina*, No.652, A.O.T. Con.23, 31 and 32, Vol.1, p.16.

Hobart Supreme Court 23 January 1837 for embezzling wearing apparel. He was sentenced to two years hard labour in Reibey's Ford Road Party but absconded soon after his arrival. He was recaptured and sent to the Launceston chain gang. His first offence at Launceston was refusing to work in irons, which earned him seven days in the solitary cells. This was soon followed by another refusing to work charge and a further absconding. He was quickly recaptured, given a two year sentence extension and returned to his gang. He announced his return by again refusing to work and was transferred to the Perth ironed party. He promptly absconded again. This time, however, he joined three other armed convicts in the interior and when captured was tried under the capital charge of "putting in fear." He was sentenced to hang on 11 June 1838. However, he was reprieved and removed to Norfolk Island under the term of his life where he disappears from view.<sup>1</sup> Nicholas Lewis also found himself in an ironed gang shortly after arrival in the colony. He first attempted to ameliorate his situation in May 1834. His offence register reads "Making a false statement upon oath to the Sup<sup>t</sup>. at BridgeW{ate}r. (ironed gang) for the purpose of Obtaining a slant to Hob<sup>t</sup>. Town..". His sentence in chains was extended six months. On the 9 July 1834 he confessed to the murder of "one John Allen commonly known as Jack Painter .. at Brune (sic) Island". It was discovered that his confession contained no substance. The superintendent concluded that Lewis had fabricated this story "for the purpose of being removed from his punishment at Bridgew<sup>r</sup>.." and Lewis himself declared that if he was sent back it would not be long before he was on the "drop" (i.e. hung). The magistrate obliged and sent him to Port Arthur. His response was a combination of feigning sickness and aggressive behaviour towards other prisoners which culminated in a vicious attack on James Murphy (status unknown) and an attempt to end his own life. During this period he was beaten five times in less than four months, clocking up 161 strokes. This pattern was broken when Lewis was promoted to the a boat crew, (he was a fisherman by trade). Over the next three years his offence record settled into an established format. He was convicted a further six times only, five of which were for trafficking.<sup>2</sup> The majority of convicts, however, settled for the *status quo* . As one assigned servant wrote to his parents, "All a man has got to mind is to keep a still tongue in his head, and do his master's duty ..".<sup>3</sup>

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<sup>1</sup> William Davis, free arrival No.1194, A.O.T. Con.31 and *Hobart Town Courier*, 25 May and 20 June 1838.

<sup>2</sup> Nicholas Lewis alias Nicholas Head Lewis alias Nicholas Head alias Michael Head per *Atlas*, No.750, A.O.T. Con.31 and Brand, *Escape from Port Arthur*, p.29.

<sup>3</sup> Clark, *Select Documents*, p.131.



The different organisational techniques employed by convict managers had varying effects on the convict population. While at all levels of convict society managers sought to encourage prisoners to be obedient and deferential, some convicts had more opportunities than others to forge a relationship which reflected their input as well as their employer's. Circumstances forced managers to place trust in their skilled workforce and much power was devolved to elements of the bond population. That the majority of convicts sought to ameliorate their condition from within this relationship rather than outwardly challenge the hegemony of the managers should not be interpreted as evidence that convict population was voiceless. While those who laboured in conditions of comparative freedom had the greatest opportunities to manipulate management techniques, other categories of labour also displayed a variety of responses to the conditions they encountered. Prisoners who spent time in gangs were regimented in a manner experienced by few early nineteenth century workers. As one observer concluded, convicts came out of penal stations wound-up like machines.<sup>1</sup> Yet, as we have seen, even in these locations, gang members played a part in moulding the dynamics of penal station life. Nineteenth century slurs on the character of prisoners should not be interpreted literally. Managers used the legal status of convicts and the invention of "lumpen" criminality as a tool. By playing on the social origins of prisoners, employers sought to legitimize the exploitation of their bonded workforce. Free workers, who suffered from direct competition with convict labour, joined the chorus of abuse. As Michael Sturma has shown, there is little evidence that transportation "contaminated" Australian society and this study endorses this conclusion. Even on the widest definition, theft accounted for a small proportion of colonial offences. As Backhouse and Walker reported; "The idea that persons transported are so depraved that they cannot be at large without danger to the public, must be received with much limitation. The safety of persons and property in Van Diemen's Land affords collateral proof of this position,..".<sup>2</sup>

The results of this work suggest that some areas of the existing literature require modification. Both Robson and Moore place weight on the correlation between skill levels and the number of recorded offences. These findings are endorsed by this study: on average, low skilled urban prisoners were indeed arraigned at a greater rate than those from other occupational backgrounds (they accounted for 26.3 percent of

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<sup>1</sup> *P.P.*, XXII, (1837-8), Minutes of Evidence, Rev. W.Ullathorne, 8 February 1838, p.17; E.Parry, 26 February 1838, p.64 and P.Murdoch, 22 March 1838, p.124

<sup>2</sup> *P.P.*, XLII, (1837-38), Copy of Despatch, Note (G) Testimonials by Messrs. Backhouse and Walker. p.26. See also J.Mitchel, *Jail Journal of John Mitchel Prisoner in the Hands of the English*, (*The Citizen*, New York, 1854) reprint (Sphere Books, London, 1983) pp.271-272.

arraignments compared to 20.9 percent of occupations in the data set.). However, it is argued that the latter have misinterpreted their data. They proceed from the assumption that such men were disproportionately drawn from a professional criminal class. Concerned primarily with the success of the system as an agent of reformation, they express little surprise that the lowest skilled made the poorest adjustment. As Moore puts it "We can safely assume that if a convict was an habitual criminal, his activities were likely to continue no matter what the circumstances were".<sup>1</sup> This study argues that rather than plotting the criminal tendency of a sub-section of the convict population, the trend that Moore and Robson observed is an effect of the balancing of positive and negative incentives at the margin. Convict managers, both public and private, were less likely to use benign labour extraction techniques where the skill component of their labour force was low. Thus, punishment was not meted out at a greater rate to road party members because these men "were worse" than those in assignment, but because this was the most efficient means of organising the work process.<sup>2</sup> This trend was further exaggerated by other factors. As indicated above there is evidence that private employers used the magistrates bench as a hiring-and-firing mechanism in an attempt to increase the skill component of their work force. Thus, a disproportionate number of low skilled convicts were committed to the punishment tiers. At these levels, where work was primarily organised around the gang, convicts of all descriptions clocked up a higher rate of offences. Yet, those prisoners who possessed appropriate skills had easier access to openings in auxiliary production and maintenance units. Unskilled workers competed on an unequal footing for these job opportunities. They were the least likely section of the labour force to gain early release from the more unsavoury aspects of gang life, a factor only partly alleviated by the establishment of penal settlement retraining schemes. As the testimony of convicts asserts, the possession of a marketable skill had an important effect on the fortunes of a prisoner. As one wrote, "I have a fellow-prisoner living with me, which he is a shoemaker, and he's learning me to make shoes which will be a great help to me".<sup>3</sup>

Moore also observed that younger convicts "offended" on average at a greater rate than older.<sup>4</sup> This finding can be attributed to a similar set of factors. One of the problems of the convict labour market was that the convict wage, the ration, was fixed at a minimum rate at each level of the system. As was observed in the previous chapter, private

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<sup>1</sup> J. Moore, *The Convicts of Van Diemen's Land, (1840-1853)*, (Cat and Fiddle Press, Hobart, 1976), p.93 see also pp. 72-90 and 102.

<sup>2</sup> For reference to punishment being meted out to the worst convicts see Shaw, *Convicts and the Colonies*, p.213.

<sup>3</sup> Clark, *Select Documents*, Vol.1, p.131.

<sup>4</sup> Moore, *The Convicts of Van Diemen's Land*, pp.70 and 87.

employers were reluctant to pay juveniles at the standard convict rate and receive in return only a proportion of the output they could expect from adults. On the other hand, public sector allocation was highly skill specific. Beyond a few openings for errand boys, the public works had little use for child labour. While children under the age of seventeen were extremely difficult to dispose of, many other young workers, the bulk of them apprentices, competed with mature workers for the positions associated with high indulgence rates. This applied especially to those skills which were over supplied. As with low skilled workers, a disproportionate number of young convicts found themselves on the receiving end of coercive management techniques.

A remarkable feature of the convict system is that these trends are not more exaggerated. In the absence of penal considerations, the logical allocation of labour would have placed low skilled workers in road gangs straight from the ship. Yet, Van Diemen's Land was a lot more than an unfree labour system. Normally where workers are employed on involuntary contracts, masters strive to balance positive and negative incentives at the margin. In the convict system, penal objectives introduce a different set of considerations which impinged on the efficient allocation of skills to jobs. The contributors to *Convict Workers* attack the stereotype of the penal system as a giant lottery. They claim that the "labour market utilised the convicts' industrial, building and agricultural skills in New South Wales to a remarkable extent".<sup>1</sup> Yet, they appear to have misunderstood the main thrust of the charge. The critics of convict society claimed that the system was a lottery as the initial allocation of labour was not dependent on the severity of the transportable offence.<sup>2</sup> While the allegation that a convict's lot depended on the demeanour of the master was used as a smoke screen, the real concern of the Molesworth Committee was that transportation fell short of the ideals of utilitarian punishment. To quote Norma Townsend, "...in its eyes, the harsh convict system failed because it was not consistently and predictably harsh enough".<sup>3</sup> While transportation to New South Wales was terminated in 1842, Van Diemen's Land continued to receive shipments of convict labour until the early 1850s. However, with the advent of the probation system in 1840, all new arrivals regardless of occupation were sent direct to road parties. Here they were employed in gangs for a set period. The latter varied according to the sentence each convict was transported for. A seven year man laboured for two years and a lifer for four. Good conduct was rewarded by a reduction, but further offences could lead to an extension. After the expiration of this period of

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<sup>1</sup> S.Nicholas, 'The Convict Labour Market', *Convict Workers*, p.125.

<sup>2</sup> Hirst, *Convict Society and its Enemies*, p.69.

<sup>3</sup> N.Townsend, 'A "Mere Lottery": The Convict System in New South Wales through the Eyes of the Molesworth Committee', *Push From The Bush*, No.21 (1985) p.75.

"probation", the convict became eligible for a ticket-of-leave and could enter the private labour market on a fixed cash wage.<sup>1</sup> The advent of the probation system signalled the end of the convict system. The justification for transportation was that it was an efficient means of extracting labour from convicted subjects. Probation so impaired this objective, that the system lost the support of its erstwhile protagonists, colonial employers.<sup>2</sup> Yet, in a very real sense, the disciplinary tightening up of the Australian convict system had proceeded from its earliest days.

On 4 March 1804, the convicts at the Castle Hill government farm rose up in outright rebellion. In all 333 mainly Irish transportees took part under the leadership of Philip Cunningham, overseer of stonemasons at Parramatta. The revolt was short lived and, in reality, never presented a serious threat to the authority of the Crown. When the main party was overtaken by a detachment of the New South Wales Corps only twenty-eight fire arms were found in the possession of the convicts. Yet, while historians have tended to downplay the significance of this "first and only" convict rebellion, they are in danger of missing the important part these events played in the development of convict society.<sup>3</sup> In any political economy where the principal means of production rests on the subjugation of the unfree, large scale revolts or conspiracies send waves of anxiety through the ranks of the dominant, that is, owner class.<sup>4</sup> The Castle Hill rebellion was no exception. The state, which alone possessed property rights in the services of convicts, had been faced with a serious challenge to its authority and it acted swiftly to counter the threat. Eight of the ringleaders were executed and nine were ordered floggings of between 200 and 500 lashes. Yet significantly, thirty-four others were re-transported to Newcastle penal settlement, founded to celebrate the occasion.<sup>5</sup> Newcastle was the first place of secondary punishment established within the colony. The development of Macquarie Harbour, Maria Island, Port Arthur and the numerous ironed gangs and road parties stand testimony to the minority of convicts who "tested the chains". If all prisoners had passively accepted the terms of their subjugation there would have been no ironed gangs, no penal settlements and no pass system.

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<sup>1</sup> A.G.L.Shaw, 'The Origins of the Probation System in Van Diemen's Land', *Historical Studies*, Vol.6, No.1 (1953) pp.16-28.

<sup>2</sup> See for example Syme's comparison of assignment and probation. J.Syme, *Nine Years in Van Diemen's Land*, (n.p., Dundee, 1848) pp.189 and 361-363.

<sup>3</sup> H.McQueen, 'Convicts and Rebels', *Labour History*, Vol.15, (1986) pp. 7-9; Hughes, *The Fatal Shore*, pp.190-191 and Hirst, *Convict Society and its Enemies*, pp.133-135.

<sup>4</sup> Gaspar, *Bondmen and Rebels*, p.93.

<sup>5</sup> Reynolds, 'The Penal Stations', p.354.

## Chapter 5

### **The Structure of Resistance: Banditry, Protest and the Early Economy.**

This project has sought a re-interpretation of the manner in which the convict system functioned based on an analysis of some of those convicts who made the choice to "test the chains". For, whatever the hopes and aspirations the bushrangers might have entertained, by placing themselves beyond the bounds of administrative control they automatically put themselves in direct confrontation with that administration. However, the bushrangers did not exist within a vacuum, they were an interactive part of the wider political economy of Van Diemen's Land. The remaining two chapters of this thesis will investigate those geographical, economic and social spaces that the bushrangers occupied or attempted to intrude into. In short, the work seeks to replace the narrative accounts which have dominated the history of Tasmanian bushranging with an analytical survey of the dimensions of resistance. This chapter will examine the work of those authors who have already sought to impose some structure on the colony's bushranging past. In particular, the argument will focus on previous interpretations of the manner in which armed convict absconders operated within the early economy. Special attention will be paid to those studies which have attempted to locate bushranging within Hobsbawm's model of "social banditry". The subsequent chapter will examine the origins of convict bushranging within the transportation system and its impact on the ideology of convict management.

There is considerable confusion about what kind of society early Van Diemen's Land was. Reiterating Melville, Hartwell compared the settlement to a prison farm. He continued: "In 1810 the population was 1321, half of whom had been transferred to the colony on the evacuation of Norfolk Island. Only a small number of the total were settlers, and fewer still were free immigrants".<sup>1</sup> In fact, this characterisation can be described as, at best, highly misleading. Of the 533 Norfolk Islanders who arrived between 1807 and 1813 only 23 were convicts still under sentence.<sup>2</sup> By 1810 large

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<sup>1</sup> R.M.Hartwell, *The Economic Development of Van Diemen's Land, 1820-1850*, (Melbourne University Press, Carlton, Victoria, 1954) p.12.

<sup>2</sup> Norfolk Island lies a thousand miles to the east of Sydney. The first convict settlement there was abandoned for logistical reasons, the last settlers leaving in 1813. In the 1820s, a new penal station was established on the Island which quickly gained an infamous reputation for the harsh regime pursued by a succession of commandants. I.Schaffer and T.Mackay, *Norfolk Island Embarkations to Van Diemen's Land, 1807-1813*, (n.p., Hobart, 1986) pp.1-17.

numbers of the original convict labour force had received conditional and/or full pardons and in emulation of the North American indentured labour system, had been settled on small land grants.<sup>1</sup> Indeed the proportion of convicts in the southern settlement of the Derwent was less than 16 percent of the total population.<sup>2</sup> Much has also been written about the character of the early settlement. While the emancipist settlers are usually portrayed as a poverty stricken rabble, the wealthier settlers have hardly received a better press. According to Robson it "was scarcely surprising that there was no 'society', for everyone ran down everyone else; robberies were committed with impunity and the inhabitants were like a set of vultures preying upon each other".<sup>3</sup>

The establishment of a bushranging "system" is usually associated with this early phase of settlement. Most accounts share Robson's assumption that the latter was an inevitable product of the poor quality of convicts supplied to the settlement. Thus according to Robson the "desperate and twice convicted convicts sent from Sydney (furnished) the island with some of the most promising bushranger material in existence".<sup>4</sup> Humphry McQueen agreed, describing Van Diemen's Land as a place of "condemnation", a clear reference to secondary transportation. He concluded that the "most usual form of convict disaffection was escape into bushranging", and that resistance "followed the pattern of all social life on the island and rarely rose above personal viciousness".<sup>5</sup> These interpretations echo a long tradition in the literature which ascribes bushranging to the contaminating effect of transportation, as Levy put it, "Bushranging was always a concomitant to convictism."<sup>6</sup> Thus, Van Diemen's Land's bushranging past has become inextricably intertwined with the belief that the settlement was reserved for the "worst" of the convicts, "the lowest specimens of the English criminal class".<sup>7</sup> This is an assumption which has never been fully tested. It

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<sup>1</sup> This is an interesting aspect of transportation to Eastern Australia. As discussed in Chapter Three, the early history of transportation is intertwined with the history of indentured migration to the British American colonies. One of the conditions of an indentured contract was that after serving his or her period of indenture, the migrant worker was entitled to a block of colonial land. The continuation of this practise in the state run Australian transportation system supports the emphasis that this thesis has placed on the economic rationale of this form of intermediate penal policy. Far from constituting a "dumping ground" for the "refuse" of British gaols, the early history of Australian convict settlement confirms that transportation was primarily an exercise in the redeployment of property rights in labour power. An exercise which was modelled on other mechanisms designed specifically to encourage or enforce the removal of human capital over long distances.

<sup>2</sup> M.Fels, 'Culture Contact in the County of Buckinghamshire, Van Diemen's Land 1803-11', *T.H.R.A.* No.29 (1982) p.61.

<sup>3</sup> L.L.Robson, *A History of Tasmania: Van Diemen's Land from the Earliest Times to 1855*, Vol.1, (Oxford University Press, Melbourne, 1983) p.70.

<sup>4</sup> Robson, *History of Tasmania*, Vol.1, (Oxford University Press, Melbourne, 1983) p.66.

<sup>5</sup> H.McQueen, 'Convicts and Rebels', *Labour History*, Vol.15, (1968) pp.12-13.

<sup>6</sup> M.Levy, *Governor George Arthur*, (Georgian House, Melbourne, 1953) p.89.

<sup>7</sup> C.White, *A History of Australian Bushranging*, Vol.1, (Lloyd O'Neil, Hawthorn, Victoria, 1970) p.2 and R.W.Giblin, *The Early History of Tasmania*, (Melbourne University Press, Carlton, Victoria, 1939) p.130.

appears to rest on three separate interpretations of the national characteristics of convicts and the internal movement of the convict population. First, it is argued that as the early Lieutenant Governors issued complaints to Sydney about the quality of some convicts, the settlement was plagued with doubly convicted felons removed from New South Wales. Secondly, that as Van Diemen's Land received few convicts shipped from Ireland the settlement contained a higher proportion of English and Scottish professional criminals than its sister colony. And thirdly, that Macquarie Harbour and Port Arthur acted as a soak, receiving secondarily convicted convicts from all over the mainland until the early 1850s.

As Marie Fels has demonstrated there is little or no evidence to support the first of these claims. She warns against the wholesale adoption of contemporary descriptions illustrating the point with the case of the naval surgeon, William Redfern. Transported for offering advice to the Nore mutineers, Redfern was described on disembarkation from Norfolk Island as a "dangerous character to society", a warning which relates to Redfern's political as opposed to social activities. As Fels demonstrates, far from protesting that the general quality of the convicts supplied from New South Wales was poor, Lieutenant Governor Collins confined his criticism to one case, a woman he described as a "veteran in infamy". Analysis of arrival dates reveals that for the period up to 1810 the number of re-transportees sent from Sydney was negligible.<sup>1</sup> Nor is there any firm evidence that secondarily convicted convicts were shipped to Van Diemen's Land in the following decade. Indeed, the evidence suggests that the standard interpretations have seized on isolated cases rather than examinations of inter-colonial indents. Surviving description lists and official correspondence suggest that the New South Wales authorities made considerable efforts to fulfil the specific labour demands of Van Diemen's Land. For example, the 70 convicts transferred from the *Chapman* in 1817 were described by Macquarie as "good men", that is, mechanics.<sup>2</sup>

The charge that later convict flows to Van Diemen's Land were disproportionately composed of hardened urban prisoners should be treated with extreme caution.<sup>3</sup> As discussed in chapter two, until the advent of the probation system the island's population was indeed largely composed of English and Scottish prisoners as opposed to Irish. However, despite the stress that previous studies have placed on the

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<sup>1</sup> Fels, 'Culture Contact', pp.62-63.

<sup>2</sup> B.Dyster, 'Public Employment and Assignment to Private Masters, 1788-1821', in S.Nicholas (ed) *Convict Workers: Reinterpreting Australia's Past*, (Cambridge University Press, Sydney, 1988) p.145. See also Governor Macquarie to Major Geils, 8 February, 1812 re the distribution of eighty male convicts from Sydney per *Ruby*. H.R.A., Ser.III, Vol.I, p.458.

<sup>3</sup> L.L.Robson, *The Convict Settlers of Australia*, (Melbourne University Press, Carlton, Victoria, 1976) p.157.



criminality of this group of prisoners, the lack of emphasis placed on skills has obscured the benefits which this national mix brought to Van Diemen's Land. This included several groups of workers rarely found onboard Irish transports, for example, shipwrights, a whole range of skilled metal workers, tanners, butchers, shoemakers, colliers and clerks. Transports from England also contained a higher proportion of skilled agricultural workers, a commodity for which there was considerable private demand. Indeed, as we have already seen, far from illustrating the poor quality of convicts supplied to Van Diemen's Land, occupational analysis of the bushrangers' indents reflects this rich variety of migrant skills. It bears repeating that the bushrangers were broadly representative of the convicts transported to the island.

As we shall see, it is the third charge which carries the most weight. There is indeed some evidence to suggest that a disproportionate number of post-1823 Van Diemen's Land bushrangers were composed of colonial re-transportees. However, it is prudent to caution against simplistic interpretations of these findings. While an unknown number of men were sentenced by mainland courts to servitude at Macquarie Harbour and subsequently Port Arthur, there were reciprocal shipments of convicts out of Van Diemen's Land. The penal settlements of Newcastle and Port Macquarie in New South Wales both received re-transportees convicted in Van Diemen's Land and from the late 1820s significant numbers were sent to Norfolk Island. As yet no attempt has been made to enumerate these inter-colonial movements, although examination of scattered cases reveals that they contained significant numbers of free arrivals, the colonially born and at least some Aborigines. To stereotype this category of convicts as dangerous recidivists is misleading.

Beyond the shallow and the simplistic, few attempts have been made to locate bushranging within the structure of convict system and or the Van Diemen's Land economy. This chapter will address the three exceptions; Marie Fels' work on bushranging in the pre-1810 period, Carlo Canteri's analysis of Michael Howe and Margot Korboll's study of bushranging in the decade 1824-1834.<sup>1</sup>

## I

### **The Profits of taking to the Woods: Bushranging and the Kangaroo Trade.**

In her analysis of culture contact between the early convict settlers and the southern Aboriginal peoples Marie Fels has produced a persuasive re-working of the standard

accounts of the development of the early European settlement. She maintains that while historians are correct in locating the origins of bushranging in the 1804-1808 period, there is no evidence that Lieutenant-Governor Collins "released" convicts into the woods or that the former bolted into the interior to escape the discipline of the early settlement.<sup>2</sup> Rather, she argues, that bushranging developed as an integral part of the early economy. The restricted range of stores, the need to maintain the health of the convict workforce and periodic supply shortages forced Collins to permit the commissariat to purchase kangaroo meat. Initially supply contracts were restricted to the eleven officers and civilians who owned dogs, although much of the actual hunting was conducted by the latter's convict servants. It was not until 1806 that climatic conditions and continuing supply difficulties forced Collins to permit the arming of convicts. Parties were now moving further afield in search of their quarry as the culls of previous years had severely reduced the eastern grey and red-necked wallaby populations in the vicinity of Risdon Cove. For the first time, convicts equipped with guns and dogs began to stay out for longer periods.

Fels demonstrates that this trade in kangaroo offered a source of internal capital generation for a restricted pool of officers and settlers. While kills of male eastern greys (average weight 150 lbs) appear to have been uncommon, female greys and male and female red-necked wallabies (average weight  $66\frac{2}{3}$  lbs) could raise over £2 each at the 1805 store price (after deducting 35 per cent of the dead weight for the head, entrails and skin).<sup>3</sup> In October 1807 Governor Bligh calculated that the store at Hobart paid out an average £145.10.5 a week solely for kangaroo.<sup>4</sup> The convict population, however, was banned from trading. Fels argues that it was this restricted access to the store which provided the initial impetus for bushranging. Rather than working directly for a master and thus receiving only a share of the proceeds as an incentive, convicts decamped into the interior with their master's hunting equipment. Once installed in the bush they re-routed the trade through the expanding settler population, receiving payment in tea, sugar, tobacco, flour, rum, gunpowder, shot and clothing. Fels draws on Fawkner's journal to support this interpretation. The latter, was the son of a *Calcutta* convict and was broadly representative of the growing class of small emancipist

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<sup>1</sup> Fels, 'Culture Contact', pp.47-79; C.Canteri, 'The Origins of Australian, Social Banditry: Bushranging in Van Diemen's Land, 1805-1818', B.Lit Thesis, University of Oxford, (1977) and M.Korbell, 'Bushranging in Van Diemen's Land, 1824-1834', B.A. Honours Thesis, University of Tasmania, (1973).

<sup>2</sup> Fels, 'Culture Contact', p.49.

<sup>3</sup> Fels, 'Culture Contact', pp.51-53.

<sup>4</sup> Fels, 'Culture Contact', p.57.

settlers. He was firmly of the belief that: "The marine officers profits at hunting led eventually to the prisoners taking to the woods as bushrangers".<sup>1</sup>

Thus in January 1806 Collins issued the first of a series of proclamations against prisoners who had absented themselves from labour and were at large in the woods. Eight *Calcutta* convicts were named and they were given ten days to surrender or be declared outlaws.<sup>2</sup> While they appear to have had dogs there is no mention of fire arms. All were tried before a magistrates bench on 22 January 1806 and received 300 lashes and were ironed for a year.<sup>3</sup> As a deterrent the punishment was far from effective. A subsequent order was issued on 17 May 1807 listing a further eight missing convicts. However this notice was directed not at the absconders but "the ill disposed inhabitants at this place (Hobart) who were known to be offering assistance to the escapees". Tough penalties were threatened:

the Lieut. Governor hereby makes it known that any free person, who shall be found to have any communication with them, shall be deprived of all indulgence from the Crown and sent out of the settlement by the first conveyance as a dangerous and disaffected person, and any prisoner who shall be convicted of the above offence shall be corporally punished and worked in irons for 12 months.<sup>4</sup>

The following year Governor Collins repeated these orders twice. On the 11 March he warned that:

as the settlers established on the banks of the river may not be aware of the evil that may accrue to themselves by affording shelter to, or receiving kangaroo from such desperate characters, the Lieut. Governor hereby informs them that if any settler is known to harbour encourage or receive kangaroo from, or in anyway give them assistance, he will be immediately struck off the stores and deprived of every indulgence from Government.<sup>5</sup>

Thirteen days later he posted a £10 reward for 12 convicts who were still missing.<sup>6</sup> Lieutenant Oxley reported towards the end of 1810 that there were between twenty and thirty convicts active in the woods between the Derwent and Port Dalrymple. In an attempt to strangle the illicit trade the administration restricted the trade in gunpowder and required settlers tendering meat at the store to declare the source of the supply.<sup>7</sup>

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<sup>1</sup> As quoted in Fels, 'Culture Contact', p.57. See also pp.58-59 and M.Tipping, *Convicts Unbound, The Story of the 'Calcutta' Convicts and their Settlement in Australia*, (Viking O'Neil, Ringwood, Victoria, 1988) pp.271-272.

<sup>2</sup> *H.R.A.*, Ser.III, Vol.1, p.537.

<sup>3</sup> Tipping, *Convicts Unbound*, pp.262,276 and 296-297.

<sup>4</sup> *H.R.A.*, Ser.III, Vol.1, p.555.

<sup>5</sup> *H.R.A.*, Ser.III, Vol.1, p.564.

<sup>6</sup> *H.R.A.*, Ser.III, Vol.1, p.564.

<sup>7</sup> Fels, 'Culture Contact', p.59.

While some convicts were severely punished for communicating with the bushrangers, these measures are generally considered to have been ineffectual.<sup>1</sup> As bushranging continued to flourish the colonial administration again turned its attention to the operation of the internal economy and in 1813, Governor Macquarie closed the store to kangaroo meat.

Carlo Canteri argues, that far from being forced out of business, the bushrangers adapted their mode of traffic to circumvent Macquarie's measures. Switching their attentions to the colony's domestic stock, they found a new lease of life as contract sheep rustlers. As Canteri observes, the changing economic base of bushranging suggests that the clandestine links that individual groups of kangaroo hunters had established with settler factions intensified in the post-1813 period. Yet, due to the nature of this trade, the level of conflict also increased. Whereas bushranging had previously been perceived as a minor irritant, after 1813 it developed into a major problem which threatened the stability of the colony. While the bushrangers themselves remained small in number, the often rugged and largely uninhabited interior of the island provided them with ample refuge. Early attempts to flush out bands of convicts met with limited success and on occasion, embarrassing military reversals.<sup>2</sup>

Heavily influenced by staple economists, Canteri sees the Commissariat store as by far the most important source of internal capital generation. In an economy where other market options were limited or virtually non-existent, he argues that colonial success or failure depended on the quantity the settler could channel through the store. The bushrangers services were in demand as it was in the settlers interest to supply the Commissariat with as much meat as possible while preserving the size of their own flocks and herds. Indeed, although all producers were theoretically guaranteed a share of this market, produce was bought on a quota system, that is in proportion to the acreage sown or the number of head run by each individual. Canteri argues that this provided an added inclination for the settler to increase their holding by illegal means.<sup>3</sup>

The clandestine trade was also facilitated by the common practise of distributing a share of the natural increase, usually a third, to the worker as a form of payment. While the "the thirds" system led to many ownership disputes, it also provided an ideal

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<sup>1</sup> See for example the case of James Campbell per *Calcutta*, No.40, who received 200 lashes in March 1807 for giving information to the bushrangers to prevent them being taken into custody. *A.O.T.*, Con.31.

<sup>2</sup> Canteri, 'The Origins of Australian Social Banditry', pp.25 and 42.

<sup>3</sup> Canteri, 'The Origins of Australian Social Banditry', pp.23-25.

opportunity to conceal stolen stock within a complicated ownership hierarchy as the following example demonstrates. When William East was apprehended in August 1818 for harbouring bushrangers, John Bingham, an emancipist settler, went to secure his flock which had been entrusted into East's care. East had been in charge of Bingham's sheep for eighteen months and was due a third of the increase as payment for his labour. On arrival at East's farm, the latter's wife gave her permission for the flock to be divided according to the aforesaid arrangement. Bingham had no sooner recovered his sheep when William Pope, James Austin's shepherd recognised thirty-one of the flock as his master's property. Suspicion was first raised when it was noticed that East and or his shepherd, John Christie, had cut the identification marks out of the stolen ewes ears. Christie, described as a "Blackman", tried to recover the suspect animals by claiming that they were part of the "third" owed to East. He was most particular to claim all of "those with their Ears Scollop'd" and appeared agitated when the request was refused.<sup>1</sup>

There are other indications that bushrangers went to great lengths to protect their clients from prosecution. Sometimes this involved the conversion of livestock into other commodities which were impossible to trace. Evans reported that in 1817 Michael Howe and others borrowed the services of two assigned servants and employed them for three days rendering down beef fat at a place they called "The tallow-chandler's shop". Evans' account also provides an indication of the scale on which these operations were enacted.

How they could afterward appropriate so great a quantity of rendered fat and suet, is truly a question worthy of being demanded; but it is more likely that it was taken off their hands by persons in and near the settlements, who are leagued with them in the way of bartering one commodity for another, that the bush-rangers should have either kept it for their own use, or have bestowed so much trouble on the preparation of an article which would so soon spoil in their hands. The cattle that were in this instance so devoted, were the property of Messrs. Stones (sic, Stynes) and Tray (sic, Troy), who declare that, out of three hundred head, one hundred and forty have lately disappeared.<sup>2</sup>

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<sup>1</sup> Hobart Bench Book, Session 7 February 1820, Examination of William East and William Christie, *Mitchell Library*, Sydney, T.A.S. 271. The bushrangers apprehended at East's property were John Scott and Benjamin Cross. They had been out in the woods several months with fire arms and were described as rogues and vagabonds. When taken they had two muskets and a pistol, six ball cartridges, a quantity of loose powder and some buckshot. Both were found guilty of sheep stealing and were sent to Newcastle penal settlement, New South Wales, to work in irons for three years. Hobart Bench Book, Session 7 February 1820, Examination of John Scott and Benjamin Cross, *Mitchell Library*, Sydney, T.A.S. 271.

<sup>2</sup> G.W.Evans, *A Geographical Historical and Topographical Description of Van Diemen's Land*, (London. 1822) reprint (William Heinemann, London, 1967), pp.103-104.

As Canteri correctly identifies, the important question is who was "leagued" with whom? While not seeking to deny that the bushrangers operated in conjunction with many smaller stock owners, Canteri suggests that the real benefits were to be obtained through links with the island's landed élite. Both Fels and Canteri have made a persuasive case that from the start bushranging in Van Diemen's Land included a strong element of convict entrepreneurial activity. However, in order to obtain any long term benefits the bushrangers required a degree of protection which could only be provided by those free inhabitants with political connections. Canteri suggests that separate bushranging groups operated under the protection of different private interests. In particular, he suggests that the long career of Michael Howe, active c.1813-1818, owes much to the latter's alignment with Edward Lord, a powerful ex-marine settler and merchant. In Canteri's favour, it would indeed appear that Lord's stockhands were far from ill-disposed towards Howe and his followers and on at least one occasion a bushranger was apprehended with a musket bearing Lord's insignia in circumstances which the investigating magistrates regarded as highly suspicious.<sup>1</sup> Canteri also argues that while Lord does not appear to have suffered material loss at the hands of Howe, or any of the fourteen or so men associated with him, many of his economic competitors did.<sup>2</sup> It is indeed possible that it was due to this type of arrangement that so many of the early bushrangers gained immunity from prosecution, appearing in later musters as free graziers and small scale settlers.<sup>3</sup>

This is an interesting aspect of Canteri's work particularly as more recent examinations of banditry in other parts of the world have suggested that this type of linkage is not at all uncommon. Thus, both Lewin, in his work on the oligarchical limitations of 'social banditry' in Brazil and Ferryhough's study of social mobility and banditry in Northern Ethiopia, argue that far from aligning with peasant communities there is a tendency for banditry to develop in a hierarchical fashion around local political lineages. This relationship provides the bandit with a degree of protection from central authority and the client with a convenient retribution squad which can be directed from a safe distance at his or her political opponents.<sup>4</sup>

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<sup>1</sup> *H.R.A.*, Ser.III, No.3, pp.75-77

<sup>2</sup> Canteri, 'The Origins of Australian Social Banditry', pp.36, 102 and 176.

<sup>3</sup> For example, the *Calcutta* convict, James or Archibald Campbell. Despite an active association with bushranging in the period 1807-14, this man was appointed ferryman for the Hobart-Clarence crossing in 1819. Tipping, *Convicts Unbound*, pp.260-261.

<sup>4</sup> L.Lewin, 'The Oligarchical Limitations of Social Banditry in Brazil: The Case of the "Good" Thief Antonio Silvino.' *Past and Present*, No.82, (1979) pp.116-146 and T.Ferryhough, 'Social Mobility and Dissident Elites in Northern Ethiopia: the Role of Banditry, 1900-69,' in D.Crummey, (ed.) *Banditry, Rebellion and Social Protest in Africa*, (Currey, London, 1986) pp.151-172.

Canteri, however, attempts to develop the argument one stage further. He claims that independent of these hierarchical linkages, some bushrangers were perceived by elements of the settler population in terms which fulfil the basic criteria outlined in Hobsbawm's model of 'social banditry'. As Hobsbawm himself has demonstrated, despite the seeming contradiction, such an argument is theoretically tenable (see chapter 1). To achieve these ends, Canteri must state a case for the existence of an economically restricted community of small scale direct producers characterised by what O'Malley terms a unified "conflict consciousness".<sup>1</sup> The standard accounts of the development of the early economy provide considerable latitude for just such an interpretation.

## II

### Rum, Poverty and Vice: Regional Failure and Social Banditry.

The basic component of this story is that initial development is dependent on the export of a staple commodity. This first stage of economic growth is accompanied by forward and back linkages in associated industries and services, thus providing a basis for sustained growth. However, until the establishment of the colonial wool industry in the late 1820s early 1830s, Australia was devoid of a staple resource. In the absence of such a commodity, the colonial administration in New South Wales and Van Diemen's Land used the purchasing power of the store to provide a staple internal market. Since the store's principle demand was for those goods which went to make up the government ration the primary accent was on farming.<sup>2</sup> Initially in New South Wales all farming was government controlled. However, in a drive towards self sufficiency, emancipists were granted small blocks of land and provided with considerable state protection. In the years between Governor Phillip's departure and Hunter's arrival, the marine officers were left temporarily in charge of the local administration. The latter used their position of authority to speed up the privatisation of the one important colonial resource, land. In the process they alienated considerable tracts for their own use. In a significant subsidiary move, they broke the government monopoly on the convict labour supply, distributing a proportion of the convicts to the private sector.<sup>3</sup> However, it is argued that initial growth performance was poor. In general the development of the colony was hindered by the pitiful quality of the convict labour

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<sup>1</sup> P.O'Malley, 'Social Bandits, Modern Capitalism and the Traditional Peasantry. A Critique of Hobsbawm', *Journal of Peasant Studies*, Vol.6, No.4, (1979) p.494.

<sup>2</sup> See J.W.McCarty, 'The Staple Approach in Economic History', *Business Archives History*, Vol.4, (1964) *passim* and W.A.Sinclair, *The Process of Economic Development in Australia*, (Longman Cheshire, Melbourne, 1985) p.38 Note 4 and Robson, *History of Tasmania*, p.4.

<sup>3</sup> B.Fletcher, *Landed Enterprise and Penal Society*, (Sydney University Press, Sydney, 1976) p.64.

supplied and in particular by the woeful shortage of skilled farm labourers. As Chapman has written; "The convicts, the basic raw material of the settlement, were mostly hopeless rejects of the Mother Country, who looked no further into the future than the end of their penal servitude. They were idle, unwilling to work, and few had skills of any kind".<sup>1</sup>

Early development was also restricted by a chronic shortage in the internal money supply. This had two effects. First, it encouraged the payment of labour in rum which became the standard commodity of exchange. Thus, the early settlement is usually portrayed as being steeped in liquor.<sup>2</sup> Secondly, while the military officers and other administrative officials are often portrayed as little better than the convicts, the shortage in internal currency gave them certain advantages over the rest of the population. Chief amongst these was access to a government salary and in the case of military officers, regimental funds.<sup>3</sup> Thus, while growth rates were generally slow, this masked considerable disparities in colonial wealth distribution.

The officers had further advantages over smaller settlers in-so-far as their salary gave them access to goods, particularly rum, tobacco, tea and sugar which could be used as incentives to raise the output of their convict workforce.<sup>4</sup> Productivity could also be increased by providing a quasi-wage for convicts employed in their "free time", that is outside the official working hours. Perhaps most importantly of all, as emancipation reduced the existing stock of convict workers, settlers with assets could afford to employ freed labour providing them with a competitive edge as the supply of unfree labour dwindled. It is also considered that the civil and military officers exercised greater care in the selection of grants and were able to use their administrative contacts to alienate choice tracts of land. As they had the resources to support a larger workforce they further benefited from economies of scale and, in particular, increased productivity by employing gangs to stump and clear land.<sup>5</sup> By investing a share of their capital in colonial shipping and warehouse facilities, a small group of agriculturalists built up a series of merchant partnerships. These firms established a central position within the exchange system converting their own agricultural produce into treasury bills at the store and using this notional currency to purchase imports through their shipping

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<sup>1</sup> D.Chapman, *1788: The People of the First Fleet*, (Doubleday, Sydney, 1981) pp.16-17.

<sup>2</sup> Fletcher, *Landed Enterprise and Penal Society*, p.55 and A.G.L.Shaw, *Convicts and Colonies*, (Faber and Faber, London, 1966) pp.66-67.

<sup>3</sup> R.W.Connell and T.H.Irving, *Class Structure in Australian History: Documents, Narrative and Argument* (Longman Cheshire, Melbourne, 1980) p.34.

<sup>4</sup> Shaw, *Convicts and Colonies*, p.68.

<sup>5</sup> N.G.Butlin, 'Free Lunches Antipodean Style; New South Wales Economy 1788-1810', *Working Papers in Economic History*, No.57 (1985) pp.21 and 26-27.



contacts.<sup>1</sup> As the economy developed it is generally acknowledged that this élite were joined by a select band of emancipist dealers, the majority of whom had accumulated capital through public employment, typically with the Commissariat Department.<sup>2</sup>

While the civil and military officers clearly benefited more than most from an official policy which regarded any internal capital circulation as beneficial, the operation of the Commissariat Store also provided a safety net for the less well off, typically emancipist settler. This was because, one, the store was a guaranteed market, purchasing all that was tended at a fixed price. And secondly, as the commissariat also returned a proportion of the produce purchased to the settler, his family and his government servants in the form of a ration. These measures were designed to protect the early agricultural economy and encourage the local production of food stuffs, thus lessening the Crown supply bill.

This policy was acceptable as long as the demand at the store continued to outstrip local supply.<sup>3</sup> However, by 1813 it was apparent that Van Diemen's Land was basically self-sufficient in food stuffs. Anxious to satisfy growing pressure from London to reduce government expenditure, Governor Macquarie intervened. The measures he introduced were designed to limit the amount of produce purchased by the commissariat, but to guarantee all producers access to this public market. Thus, he reduced the number of settlers on the official list, that is, in receipt of a government hand out, and introduced a quota purchasing system. Henceforth agricultural producers could rely on the commissariat to purchase only three bushels of wheat for every acre under crop. When the remainder was tendered on the private market it realized prices as low as half the official rate of 10 s/- a bushel. Comparison of victualing lists suggest that the impact of this change of policy was widespread. In 1810 the total number of proprietors and dependents settled in the southern county of Buckinghamshire was 697, all of whom received a government handout. In 1813 the total had risen to 738, but 495 of these were off the stores and received no government support.<sup>4</sup>

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<sup>1</sup> British ships' masters were more prepared than most to accept treasury bills at face value since they could be presented to government on arrival at a home port. In the colony, bills were exchanged below their face value reflecting the difficulties associated with converting this notional currency into cash.

<sup>2</sup> Fletcher, *Landed Enterprise and Penal Society*, pp.86-87.

<sup>3</sup> Fletcher, *Landed Enterprise and Penal Society*, p.78.

<sup>4</sup> *Report from the Select Committee on Transportation*, 1812 (341) II; *Convicts Landed in New South Wales*, 1816 (314) XVIII; *Papers relating to His Majesty's settlement at New South Wales, 1811-1814*, 1816, (314) XVIII and *Report from the Select Committee on the State of Gaols, etc. Mins of Ev. etc.*, 1819 (579) VII.

The surplus wheat which was not purchased by the store, consumed by the producer or sold in the internal private market was exported to New South Wales. While this market depended largely on the requirements of the commissariat, an expanding convict population and a series of disastrous harvests provided an outlet for surplus grain from Van Diemen's Land. Exporting produce, however, required contacts with shipping interests and capital investment beyond the reach of most producers. The additional risks of shipping losses and fluctuating markets presented further hurdles to small-scale investors. Thus, the inter-colonial movement of commodities remained in the control of a few import/export partnerships. The latter purchased wheat in Van Diemen's Land where prices were relatively low and gambled on the demand in Sydney. Thus, as Commissioner Bigge noted, even when the price differential between the two colonies was great only a few benefited: "...the state of dependence in which most of the settlers are at Van Diemen's Land upon the dealers prevents them from deriving much benefit from the increasing consumption of New South Wales has created for wheat and meat."<sup>1</sup>

By 1820 twelve grain dealers held 8,555 acres between them, 15 percent of the total land granted in the county of Buckinghamshire.<sup>2</sup> They were Thomas Birch and his partner Thomas Clarke; Richard Fryett and his partner John Ingle; A.F.Kemp and his partner George Gatehouse; Edward Lord and his partners Thomas Kent and Francis Williams; Roland Loane, Richard Lewis and Nathaniel Ayres.<sup>3</sup> Bigge also observed that it was these large settlers-come-dealers who profited from the quota system. With the financial resources to construct storage facilities for surplus produce the commissariat was forced to rely heavily on their tenders in order to maintain an annual supply.<sup>4</sup> Settlers with capital resources benefited further from Macquarie's ban on the trade in Kangaroo meat which provided a dramatic stimulus to the livestock industry. In 1811 there were only 421 horned cattle and 3,573 sheep in Van Diemen's Land. By 1813 these numbers had risen to 3,894 and 24,691 respectively and in 1817 there were over 100,000 sheep and 11,000 cattle in the island. The assumption is, that as in New

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<sup>1</sup> *P.P.* 1823, Vol.X, 'Report of the Commissioner of Enquiry on the State of Agriculture in New South Wales', p.54. See also, Robson, *History Of Tasmania*, p.75 and Connell and Irving, *Class Structure and Australian History*, p.43.

<sup>2</sup> Prior to the establishment of a parish system in the mid-1820s, the island was split into two counties, Buckingham in the south and Cornwall in the north. These counties were further subdivided into districts and provided with a magistrate and a chief constable. D.Heard, 'The Development of the Parish in Tasmania', *T.H.R.A.*, Vol.20, No.2 (1973) pp.26-29.

<sup>3</sup> See entries in the *Australian Dictionary of Biography*, Vols. 1 and 2.

<sup>4</sup> *P.P.* 1823, Vol.X, 'Report of the Commissioner of Enquiry on the State of Agriculture in New South Wales', p.29.

South Wales, the livestock industry was largely, if not wholly, the preserve of a landed élite.

Yet, while a privileged group at the intersection of the cereal, livestock and merchant sections of the economy amassed colonial fortunes, the settlers as a whole were faced after 1813 with rising costs and falling profits, and therefore found conditions considerably harder. Although the total settler population continued to increase between 1810 and 1816 from 735 to 894, this was principally due to natural increase. The total number of proprietors rose from 294 in 1810 to 325 in 1813, after this date, however, the number of landholders stabilized and by 1816 the total had actually dropped to 320.<sup>1</sup> This was despite a continued rise in the total population from 1470 in 1810 to 2035 in 1816.<sup>2</sup> In 1820 Lieutenant Governor Sorell commented on the "generally distressed state of the settlers", approximately two thirds of whom were in debt.<sup>3</sup> A case can be made that Governor Macquarie's measures greatly accentuated divisions within the settler community instead of redistributing colonial wealth as he apparently intended.<sup>4</sup>

Thus, while the overall record of farming in Van Diemen's Land compared favourably with the experience of New South Wales, this achievement masked considerable variations in the fortunes of individual farmers. While protection had been fully extended to all as long as local demand continued to outstrip supply, as the gap between produce tendered and the requirements of government diminished the tightening market exposed the precarious state of the smaller units of production. The latter could not match the productivity of the larger farms which were the first to introduce technological advances, notably ploughs and harrows and other land improvements, for example, manuring and fencing. While many small scale farmers employed a handful of convict and free workers, larger units were able to introduce supervision and employ groups of convicts in clearing, hoeing and harvesting gangs, thus increasing output. In accounting for the failure of small-scale granting, contemporary observers and historians have also pointed to the intemperance of emancipists and their general

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<sup>1</sup> *P.P.* (1810) Select Committee on Transportation, Appendix No.3 and *P.P.* (1819) Select Committee on Gaols, Appendix (P.1.)-(c.), (P.4.)-(c), (P.4.)-(d), (P.4.)-(e) and (P.4.)-(f).

<sup>2</sup> N.Butlin, J.Ginswick and P.Statham, *Colonial Statistics Before 1850*, Source Papers in Economic History, N0.12 (Australian National University, Canberra, 1986) p.59. Data does not include Aboriginal Tasmanians.

<sup>3</sup> *H.R.A.*, Ser. III, Vol. 3, p.56.

<sup>4</sup> Canteri, 'The Origins of Australian Social Banditry', p.38.

unfamiliarity with farming techniques.<sup>1</sup> Less generous commentators have sought to demonstrate that they were lazy and unsuited to hard manual labour.<sup>2</sup>

Having outlined this process Canteri focuses his attention on one particular settlement area, New Norfolk in the upper Derwent valley. He would appear to do so for five reasons. First, the area was removed from Hobart and in the 1814-1818 period it was close to the limits of settlement. Secondly, he argues that the licensing of privately owned river craft, one of the measures introduced to control bushranging, hit the New Norfolk settlers particularly hard. Much alarm had been expressed at the ease with which bushrangers had been able to procure boats to convey stock and goods considerable distances and conduct assaults on properties in the settled districts. As Canteri observes, these measures left the settlers at New Norfolk dependant on the Irish emancipist dealer, Dennis McCarty, who had in effect been granted a monopoly of river traffic in the upper Derwent region. Thirdly, Canteri assumes that this settlement received the majority of the relocated Norfolk Islanders. This is an important point, as this was a community first established in 1790 and was comprised of a tight cluster of family units. Further, in contrast to the *Calcutta* convicts who had arrived at the start of the previous decade, by 1814 a second generation of Norfolk Islanders was well established, many of whom were proprietors in their own right. Fourthly, the original settlers, the bulk of whom were emancipists derived from the first, second and third fleets, had been promised considerable compensation on their enforced removal to Van Diemen's Land. The colonial government, however, had been unable to supply quantities of livestock and labour sufficient to fulfil the islanders expectations. Fifthly, the New Norfolk, district became a centre for bushranging operations and stock theft in the 1814-1818 period.<sup>3</sup>

Surviving descriptions of conditions at New Norfolk support the conclusions of Canteri and Rimmer that after Macquarie's intervention the majority of settlers "disappeared into debt, or slid into subsistence agriculture".<sup>4</sup> For example, Commissioner Bigge reported that:

The inhabitants of the settlement called New Norfolk chiefly consist of the convicts who were sent from Norfolk Island, and were removed

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<sup>1</sup> Robson, *History of Tasmania*, p.70.

<sup>2</sup> Chapman, *1788: The People of the First Fleet*, pp.16-17 and J.B.Hirst, *Convict Society and its Enemies*, (George Allen and Unwin, Sydney, 1983) p.99.

<sup>3</sup> Canteri, 'The Origins of Australian Social Banditry', pp.26-31 and R.Wright, *The Forgotten Generation of Norfolk Island and Van Diemen's Land*, (Library of Australian History, Sydney, 1986) pp.99-100.

<sup>4</sup> G.Rimmer, 'The Economic Growth of van Diemen's Land 1803-1821', p.338 and Canteri, 'The Origins of Australian Social Banditry', p.38.

from thence after being habituated to the soft climate and rich soil of their beautiful settlement.

They are very few amongst them who have not suffered in their circumstances by this removal, and all regret it.

The indulgent consideration with which their claims were treated on leaving their settlements on Norfolk Island, and on their arrival in Van Diemen's Land, has neither soothed that regret nor improved their circumstances; and most of them became the easy victims of temporary indulgence on their arrival, and are now regretting the sacrifices that they were induced to make of the advantages that the government very liberally bestowed upon them. Their habitations are small and in a state of great dilapidation, and their lands appear to be exhausted by perpetual cropping.<sup>1</sup>

Can this community be used as a proxy for Hobsbawm's "traditional peasantry"? Clearly the accent placed by the early administrations on small scale settlement was intended to encourage something akin to a peasantry. In 1814 Governor Macquarie wrote to Bathurst describing the emancipists along with other small scale settlers as "a lower class whose early and laborious habits render them useful to the colony and constitute them, properly speaking, the yeomanry of the country".<sup>2</sup> A more detailed view of this regional settlement pattern can be established through analysis of livestock and land holding returns. The earliest surviving muster for southern Van Diemen's Land was conducted in late 1817. In this year there were thirty-five farms located in the district of New Norfolk of which twenty-six were owned by ex-Norfolk Islanders. Only five of these proprietors had arrived free in Australia, twenty-four were emancipist convicts and of the remaining six, five were born on Norfolk Island and the status of one is unclear. However, there was little to distinguish the free arrivals from the other settlers. Three of the former, Bastrien Suez, Antonio Buckall and Sultan Saib were 'lascar' sailors from Calcutta. They had originally arrived in Norfolk Island on the make shift brig *Providence*, after being stranded on North Island, New Zealand in 1795.<sup>3</sup> All were officially recorded as objects of charity in the muster and were supported off the stores. The other two free proprietors were Abraham Hands and Samuel King, both former marine privates who had been paid off on Norfolk Island.

Seventeen of the New Norfolk farmers were married and between them they had twenty four children listed as dependents. Three farmers, Robert Jillet, Thomas Crahan and James Triffitt, had sons who had been granted land around the township. Indeed

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<sup>1</sup> *P.P.* (1823) Vol.X, 'Report of the Commissioner of Enquiry on the State of Agriculture in New South Wales, p.54.

<sup>2</sup> *H.R.A.*, Ser.I, Vol.8, p.303.

<sup>3</sup> Wright, *The Forgotten Generation*, p.27.

the two Jillet sons were married and had children of their own. Several other families in the district were linked by blood ties, many of which dated back to the Norfolk Island settlement. Extant labour returns list only three assigned servants and two freemen employed as farm or stockhands. It would seem that the labour input was primarily provided by the proprietors themselves, their wives and children, other relatives and neighbours. There are thus, distinct parallels between this mode of labour mobilisation and those local economies commonly labelled peasantries. In capitalist farming, labour is a commodity to be hired and fired according to the dictates of the market. Farms maintained by kith and kin, however, are governed by a different set of objectives. Those members of the labour force who are also members of the family unit are entitled to a share of the proceeds. Indeed, the birth-right of each is a share in the means of production. The object of the farm is two-fold, to provide employment for as many family members as possible and to ensure that the next generation are given the means to continue the tradition of family enterprise.<sup>1</sup>

Table 5.1      **Wheat Tenders by Acreage Under Crop, County of Buckingham, Van Diemen's Land, 1817.**

Acreage Under Wheat	N <sup>o</sup> . of farmers	N <sup>o</sup> . of tenders made	Tenders as a % of farmers	Value of tenders (£s)	Average value (£s)	N <sup>o</sup> . of former convicts	N <sup>o</sup> . of Norfolk Islanders
Under 5	42	3	7	33.00	11.00	23	20
5-9	84	20	24	277.50	13.88	50	48
10-14	30	16	53	261.50	16.34	14	15
15-19	18	10	56	217.50	21.75	8	7
20-24	16	9	56	387.00	43.00	9	6
25-29	3	2	67	76.50	38.25	1	0
30-34	5	3	60	106.00	35.33	4	3
35-39	3	3	100	150.00	50.00	1	0
40-44	3	1	33	45.00	45.00	1	1
45-49	1	1	100	60.00	60.00	1	0
Over 50	7	5	71	583.50	116.70	0	0
Total	212	73	34	2197.50		112	100

Sources: Mitchell Library, 'Van Diemen's Land Books, Muster of the holders of land and stock in the County of Buckingham, Van Diemen's Land, conducted between the 6 October and 25 November 1817'; *Hobart Town Gazette*, 29 March, 1817 and N.Butlin, J.Ginswick and P.Statham, *Colonial Statistics Before 150*, Source Papers in Economic History, No.12, (Australian National University, Canberra, 1986) p.66.

<sup>1</sup> S.Franklin, *The European Peasantry*, (Methuen, London, 1969) pp.1-2 and 15-16; D.R.Mills, *Lord and Peasant in Nineteenth Century Britain*, (Croom Helm, London, 1980) pp.43-48; D.R. Mills and B.M. Short, 'Social Change and Social Conflict in Nineteenth-Century England: The Use of the Open-Closed Village Model', *Journal of Peasant Studies*, Vol.10, No.4, p.259 and M.Reed, "Gnawing it Out": A New Look at Economic Relations in Nineteenth-Century Rural England, *Rural History: Economy, Society, Culture*, Vol.1, No.1 (1990) p.84.

As we have already seen, according to Rimmer that family heritage came under increasing threat in the years after 1813. Based on the agricultural statistics collected in 1817 it is possible to make a number of observations. In total there were 253 farms in the southern county of Buckingham, of which 212 were at least in part cultivated.<sup>1</sup> However, 60 percent of these establishments had less than ten acres under wheat. Analysis of the muster of the free population for the following year reveals that on a lower bound estimate 60 percent of farmers in this category were emancipists, many of them former residents of Norfolk Island.<sup>2</sup> Rimmer's suspicion that these small-scale proprietors had limited access to the store is confirmed. Employing the tender list, advertised in the *Hobart Gazette* 29 March 1817, it is possible to calculate that only 7 percent of those proprietors cultivating under five acres of wheat negotiated a government contract in that year. While the farmers with five to nine acres fared slightly better, a 24 percent return was still lower than that obtained by larger units (see table 5.1). Rimmer's suggestion that subsistence agriculture had replaced the primitive market in this sector of the economy and/or that the smaller 20-40 acre land grants were incapable of producing sufficient quantities of wheat to conclude a favourable contract, is persuasive.<sup>3</sup>

While in New South Wales, the commissariat meat trade was the preserve of the larger, predominantly free, settlers, it is apparent that in Van Diemen's Land the divide was less pronounced. The first observation which should be made is that analysis of the returns reveals that size of land holding is a poor indicator of socio-economic status. Many small owners were running numbers of livestock far beyond the limited grazing capacity of their farms. Additional grazing could be obtained in three ways: firstly, the settler could apply for a grazing licence from the colonial government; secondly, he or she could reach an agreement with a relative or neighbour with spare land resources and thirdly stock could be grazed illegally on crown, that is un-alienated, land. Thus,

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<sup>1</sup> Unfortunately, the return for the less populous County of Cornwall is not extant for 1817.

<sup>2</sup> This estimate is lower bound as it is based on the assumption that the 13 percent of farmers whose status is unclear were all free arrivals or were colonially born. 'General muster of the whole of the free men, women and children, off and on the stores in his majesty's settlement at Hobart Town, Van Diemen's Land 7 September to 2 October 1818', Wright, *The Forgotten Generation*, Appendix B; *P.R.O.*, HO/10/1 and 2; HO/11/42; *Mitchell Library Van Diemen's Land Books*, 1818-1822, 4/1235; *A.O.T.*, L.SD.D. 345/1,2 and 3 and Schaffer, McKay and Woods, *Norfolk Island Embarkations*, pp.1-17.

<sup>3</sup> In New South Wales the small farmer commonly grew maize as a subsistence crop and wheat for the market. The predominance of maize in the early crop returns suggests that subsistence production was widespread. The Van Diemen's Land climate was not suited to maize cultivation, however, and wheat was grown for both purposes. It is thus impossible to distinguish subsistence and market production from analysis of the agricultural returns. P.McMichael, *Settlers and the Agrarian Question*, (Cambridge University Press, Cambridge, 1984) p.45.

limited acreage did not obstruct access to the meat market. As Butlin has argued, the expense of importing livestock posed a more considerable hurdle, for on top of purchase and transit costs, the importer had also to account for losses incurred during shipment.<sup>1</sup>

Table 5.2      **Distribution of Livestock Holdings by Size of Herd,  
County of Buckingham, Van Diemen's Land, 1817.**

Nº. of Head	Cattle	% of proprietors	Sheep	% of proprietors
None	177	45.0	75	19.1
1-49	187	47.6	99	25.2
50-99	15	3.8	144	36.6
100-499	12	3.1	39	9.9
500-999	1	0.3	26	6.6
1000	1	0.3	10	2.5

Source: Mitchell Library, Van Diemen's Land Books, 'Muster of the holders of land and stock in the County of Buckingham, Van Diemen's Land, conducted between the 6 October and 25 November 1817'.

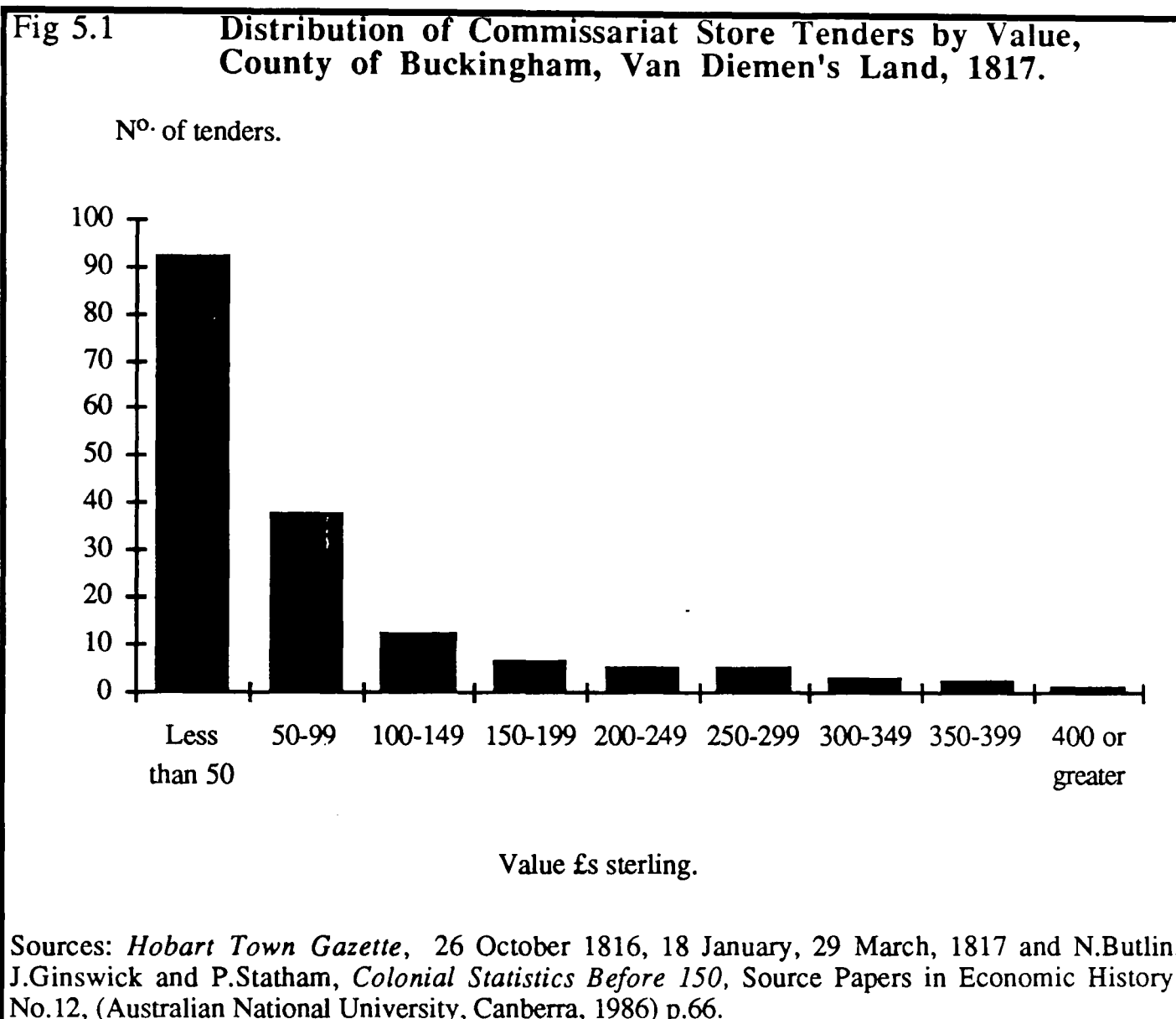
Yet, as herds and flocks became established in Van Diemen's Land their appears to have been considerably more diffusion of resources than occurred in New South Wales. For example, in 1817, 46 percent of cattle and 52 percent of sheep run in the County of Buckingham were owned by emancipists or convicts still under sentence. The distribution of stock was a product of the shortage of internal capital and the resultant widespread practice of paying labour and debts in head. However, while a few former convict graziers had amassed considerable holdings, these men and women were atypical. The gulf between small and large producer was especially marked in the beef trade. Those holding four or less head accounted for 29 percent of all owners and under 50 head, 88 percent. A high proportion of these beasts should more properly be described as milking cows and draft animals. We can surmise that small producers with their eye on the meat market restricted culling to selected male animals concentrating on increasing stock numbers as opposed to immediate gains. As in New South Wales, the sizable beef supplier was characteristically a former civil or military officer and/or a partner in a trading enterprise. Of course this trade was not exclusively in beef. Mutton,

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<sup>1</sup> N.G.Butlin, 'Free Lunches Antipodean Style,' p.38.



and to a lesser extent pork, were also tendered at the store.<sup>1</sup> There were 314 sheep owners in southern Van Diemen's Land in 1817. While flock sizes were generally small (45 percent were under 100 head) it is apparent that the trade in mutton gave many small-to-middling producers access to the Commissariat market. Their share of that market, however, remained restricted. Thus, while the Commissariat purchased a total of 475,550 lbs of meat from a total of 100 suppliers in 1816-17, only 30 of these supplied tenders throughout the year and three producers, Edward Lord, John Ingle and Thomas Birch accounted for over 16 percent of the total.<sup>2</sup>



The distribution of tenders by value for the year 1817 is detailed in fig.5.1. It will be observed that while the store provided a market for the produce of many farms, the financial returns from these dealings were unevenly distributed. Over half those who

<sup>1</sup> Many farmers kept swine. A favourite of small settlers, hogs consume surplus grain and household scraps and can be run on limited acreage. They also breed more prolifically than cattle or sheep and can be culled for local consumption or to provide salt pork, always in demand due to its preservative qualities. Fletcher, *Landed Enterprise and Penal Society*, p.45.

<sup>2</sup> Rimmer, 'The Economic Growth of Van Diemen's Land', p.340.

secured a government contract to supply agricultural produce did so for quantities of goods valued at £50 or less. To put this into perspective, the annual clothing bill for an adult worker was calculated in 1820 to cost a minimum of £10 at Hobart prices.<sup>1</sup> After deducting for transport, harvesting, threshing and other overheads, the net returns which accrued to the small producer must have been small. Indeed, it is apparent that few colonial fortunes were made out of the official trade in agricultural produce. In all, only sixteen settlers, the bulk of them free arrivals, were awarded contracts worth more than £200 and only one, Edward Lord, worth more than £1000. It is apparent that the role of the store as a staple market was severely restricted by the small size of the colony's population. The demand for goods to make up the ration was finite and the overall expansion of the agricultural sector, combined with the introduction of quotas, conspired to push the small supplier towards the margins of production.<sup>2</sup>

While Canteri chose to restrict his analysis to the settlement at New Norfolk, it is apparent that the latter was by no means exceptional. Analysis of the 1817 agricultural returns reveal that there were few large rural production units in the island and those that did exist were typically held by Government officials, ex-officers and the few men of means who had arrived free. Most areas were characterised by small farms within access of water-borne communications with Hobart or Port Dalrymple. Scattered throughout these settlements were 113 men and women who ran stock but possessed no land. While some were clearly relatives of landholders others are recorded as stockmen. Thus, we can conclude that where the labour services of the family were supplemented with hired labour, payment was made in kind on the 'thirds' system.<sup>3</sup> The redistribution of a share of the natural increase had important implications. The labour force, convict and free, was bequeathed a stake in the means of production and thus encouraged to identify his or her interests with those of the direct producer. Mixing freely and spending their leisure time "gregariously", commentators considered that there was little to distinguish the small farmer from his employees.<sup>4</sup> This was true

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<sup>1</sup> J.Dixon, *Narrative of a voyage to New South Wales and Van Diemen's Land in the Ship Skeleton During the Year 1820*, (John Anderson, Edinburgh, 1822) reprint (Melanie Publications, Hobart, 1984) p.84.

<sup>2</sup> Sinclair, *The Process of Economic Development in Australia*, pp.19 and 33-34.

<sup>3</sup> There is a marked disparity between the proportion of cattle and sheep held by this group, 6 and 22 percent respectively of the total number run in the county. This is in one sense surprising as the returns detailed in Chapter Three indicate that cattle raising was the more labour intensive of the two operations, requiring approximately one worker for every 60 head (compared to sheep, with one worker for every 300 to 1000 head). There is thus, a strong indication that this method of payment predominated amongst sheep graziers, that is largely small to middling production units. We should also note that payment on the 'thirds' was not limited to stock, but could also include a proportion of the yield in the case of arable operations.

<sup>4</sup> Fletcher, *Landed Enterprise and Penal Society*, p.221.

both socially and in physical appearance. When employer and employee set out to check their jointly owned flock for scab they did so in the universal garb of the colonial lower orders, the kangaroo skin jacket.<sup>1</sup> The picture obtained from these returns is of a series of "unsophisticated" local economies removed from the larger producers. This is supported by the division in use of leisure time, the former socialising at the local bare fist boxing match, while the latter aspired to be "seen" at the races held at Lord's estate of Orielton Park.<sup>2</sup>

While 'unsophisticated' is a word commonly used to describe those economies which are largely, or wholly, subsistence based, care must be taken not to underestimate the internal mechanics of these societies. While detailed information of small-scale transactions is almost non-existent for this early period, it would seem reasonable to assume that the manner in which local goods and services were exchanged was not dissimilar to that in contemporary rural British society. That is to say, that the bulk of transactions were conducted between members of the same community and that accounts were settled through a reciprocal movement of goods, services, labour and cash. A feature of such transactions is that they are highly flexible. They allow goods and services to be mobilised at a particular time of the year and paid for later when the product of the initial investment bears fruit. Indeed, the 'thirds' system is a succinct illustration of the operation of such an economy: labour services tendered throughout the year being paid for only after the lambing. As Reed has recently demonstrated in the case of the English village economy, a typical feature of such transactions was that interest was seldom charged. This is because the function of a neighbourhood exchange system is not to maximise profits, but to protect both the fabric of the community, and within that community, the long term security of the household unit.<sup>3</sup>

However, such communities rarely live in isolation of the wider external economy and it is in their dealings with third parties that difficulties are often encountered. In early Van Diemen's Land this was especially applicable, for, as the range of locally produced goods was at first limited, small holders had to rely on the imported goods for sale in the warehouses of shipping merchants. Yet, the haphazard method of settling accounts characteristic of neighbourhood exchange systems are an anathema to the would-be commercial operator. Primarily concerned with maximising profits, dealers required prompt payment or, where credit was extended, the repayment of interest. This was a process which led inevitably to a rash of civil actions. As Reed has written

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<sup>1</sup> Dixon, *Narrative of a Voyage*, p.85.

<sup>2</sup> *Hobart Town Gazette*, 4 and 5 October and 1 November 1817.

<sup>3</sup> Reed, "Gnawing it Out", pp.85-89.

of nineteenth-century rural England, "Once enmeshed in the market the laws of the market held sway. Bankruptcies became relatively common".<sup>1</sup> Examination of civil suits which led to property seizures and/or imprisonment for debts of less than £50 between July 1817 and November 1819 provides support for such an interpretation. In all 305 suits were initiated in the Lieutenant Governor's Court which ended in the issuing of *Fieri Facias* or *Capias Satisfaciendum* writs.<sup>2</sup> While the overwhelming majority of defendants were small scale farmers, predominantly emancipists and their colonially born offspring, a small minority of plaintiffs who described themselves as merchants and/or traders received 33 percent of all awards. Many smaller properties appear to have been acquired in this period in exchange for debts, a process which served to enlarge the holdings of a small landed commercial élite at the expense of the smaller, predominantly emancipist, producer.<sup>3</sup>

There are distinct parallels between this type of community, that described by Hobsbawm as a "traditional peasantry", O'Malley's "direct producers" and the "open village" model outlined by Mills and Short.<sup>4</sup> In particular we should note the emphasis that all these authors have placed on a collective sense of unity fostered through intermarriage, the operation of the local economy, and redistribution and inheritance mechanisms. All have also stressed the economic, ideological and social independence of this form of "village", a diagnostic feature of which appears to be the lack of a local landed élite. The presence of squire, parson and estate bailiff implies a society ordered along hierarchical lines with a firm conception of status and rank. However, Hobsbawm, O'Malley, Mills and Short have all argued that the "open village"/"traditional peasantry" is distinctive in that its members share sense of belonging to a collective entity. That is, they display community consciousness, as opposed to the consciousness of status and place with its emphasis on a ridged internal ordering within the borders of the village world.<sup>5</sup>

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<sup>1</sup> Reed, "Gnawing it Out", p.88.

<sup>2</sup> *Fieri Facias*: a writ of execution directing the sheriff to whom it is addressed to levy from the goods and chattels of the debtor a sum equal to the amount of a judgement debt and interest. The sheriff makes a seizure and institutes a sale by action. *Capias ad Satisfaciendum*: a writ for the arrest of the defendant in a civil action where judgement has been recorded against him for a sum of money and has not been satisfied. A.O.T., L.C.3, Lieutenant-Governors Court, Register of Judgements in Civil Cases 11 July 1817 - 1 February 1822.

<sup>3</sup> Fletcher, *Landed Enterprise and Penal Society*, pp.86-87.

<sup>4</sup> E.J.Hobsbawm, 'Peasants and Politics', *Journal of Peasant Studies*, Vol.1, No.1 (1973) pp.3-22; P.O'Malley, 'Class Conflict, Land and Social Banditry: Bushranging in Nineteenth Century Australia', *Social Problems*, Vol.26, No.3 (1979) pp.271-283 and Mills and Short, 'Social Change and Social Conflict in Nineteenth-Century England', pp.253-262.

<sup>5</sup> Mills and Short, 'Social Change and Social Conflict in Nineteenth-Century England', p.259

For Hobsbawm and O'Malley this is particularly important and we have already seen the role they have assigned to "a unified conflict consciousness" within the "social bandit" model. Yet, in a different context the former has argued that the "open village" remained the strong hold of the collective protest in nineteenth century England. In conjunction with Rudé, Hobsbawm has described how the 1830 Swing Riots were centred on the open villages, by-passing the "tranquil" closed settlements irrespective of prevailing social and economic conditions.<sup>1</sup> As Mills and Short have put it, "...if we are talking in Marxist class terms, with the owners of capital ranged against the providers of labour, estate villages showed the sharpest distinction but few signs of protest. By contrast open villages had a more subtle 'class' structure but there was widespread opposition to the establishment of Church and Land."<sup>2</sup> The form which this protest took also reflects the composition of the communities involved. Thus, political aspirations are weak or non-existent, for the protest does not revolve around class issues, but the collective expression of a locally felt grievance. Unity is ensured, as the manner in which individuals within the community relate to the means of production is blurred by custom, family ties and local obligations. In a phrase, this form of village protest is concerned with "popular justice". The protest is deemed to have achieved its end when "justice" is seen to have been enacted on those who have transgressed or threatened what are perceived to constitute the collective rights of the community. Grievances thus translate into personal hatreds rather than "issues" and the protest movement itself is played out through the use of vindictive force or the threatened use of force. In extreme cases this can include assassination, but cattle maiming; incendiarism and the forcible expropriation of property are more common physical manifestations. As Hobsbawm has demonstrated, the actual process of "settling accounts" may be conducted by a few members of the community or even individuals not directly connected to the "village", itself, as in the case of the the "social bandit". The important point is that the community as a whole must perceive that any "anti-social" behaviour (that is, actions which threaten the "village" interest) has been satisfactorily atoned for and that the mechanism for achieving atonement is retribution.<sup>3</sup>

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<sup>1</sup> E.J.Hobsbawm and G.Rudé, *Captain Swing*, (Penguin, Harmondsworth, Middlesex, 1985) p.158. See also A.Charlesworth (ed.), *An Atlas of Rural Protest in Britain 1548-1900*, (Croom Helm, London, 1983) pp.60-62.

<sup>2</sup> Mills and Short, 'Social Change and Social Conflict in Nineteenth-Century England', p.259.

<sup>3</sup> A.J.Peacock, 'Village Radicalism in East Anglia 1800-50', in J.Dunbabin (ed.), *Rural Discontent in Nineteenth Century Britain*, (Faber and Faber, London, 1974) p.30; R.B.Manning, *Village Revolts: Social Protest and Popular Disturbances in England 1509-1640*, (Clarendon Press, Oxford, 1988) p.310; E.J.Hobsbawm, *Bandits*, (Penguin, Harmondsworth, Middlesex, 1972) pp.17-29; D.J.V.Jones, 'The Poacher: A Study in Victorian Crime and Protest', *Historical Journal*, Vol.22, No.4, (1979) pp.826-827 and Hobsbawm and Rudé, *Captain Swing*, p.171.

The early development of bushranging in Van Diemen's Land has distinct parallels with this form of protest.

To give two examples, on the night of 10 March 1815 the bushrangers George Watts and Thomas Garland, fired the wheat stacks and barns of the police magistrate A.W.H.Humphrey and the district constable Bartholomew Reardon, (the properties lay about a mile distant from each other). The next morning a piece of paper was found on Humphrey's farm which read: "'For in justices and we begin the next is...for you all.' *Between the words 'is' and 'for' was a sketch of a musket pointed at a man's head.*"<sup>1</sup> In November of the same year John Yorke was stopped on the road to Hobart by a party of fourteen bushrangers and two armed aboriginal women. They directed the later to inform Mr Humphrey and Mr Wade to take care of themselves, "as they were resolved to take their lives, and to prevent them from keeping stock or grain,... that Mr Humphrey might reap what grain he liked, but they would thrash more in one night than he could reap in a year. They said they could set the whole country in a fire with one stick."<sup>2</sup>

Entrenched in the standard interpretations of the development of the early colonial economy, Canteri's analysis squares with the more recent re-workings of Hobsbawm's model of social banditry. Further, the debate on the nature of the late eighteenth, early nineteenth century English peasant economy has strengthened the theoretical basis of this line of inquiry. Yet, while the deployment of this tool of historical analysis has produced an interesting interpretation of the dynamics of early colonial Van Diemen's Land, Canteri has made no effort to extend his investigation to the subsequent history of bushranging within the colony. While the administration felt confident that the bushranging insurrection of 1813 had finally been quashed with the death of Michael Howe in 1818, the 1820s brought new levels of violence to the Van Diemen's Land countryside. Indeed, throughout the 1830s and 1840s and even into the 1850s, discussion of the bushranging menace remained prominent in the columns of the Van Diemen's Land press. Over this period the colony changed dramatically and it remains to be seen whether Canteri's analysis of the bushranging conflict is flexible enough to account for the longevity of this form of protest. The two subsequent sections of this chapter will examine the social and economic development of the island in the period 1817-1830 and the limitations that these place on an extension of Canteri's work.

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<sup>1</sup> H.R.A., Ser.III, Vol.3, pp.89-92.

<sup>2</sup> T.Wells, *Mike Howe the Last and Worst of the Bushrangers*, (Hobart, 1819) reprint (Platypus publications, Hobart, 1966) pp.15-16. See also Canteri, 'The Origins of Australian Social Banditry', p.73.

### III

"It now bids fair to be a most flourishing settlement."<sup>1</sup>

#### Developments after 1817.

In the years after 1810 the growth of the free population and the continued emphasis on small-scale agricultural settlement exacerbated the shortage of convict labour. In order to honour labour commitments to the relocated Norfolk Islanders and to maintain the encouraging growth in foodstuff production, regular shipments of convict labour were diverted to the colony from 1817 onwards. This marked a major change in official policy. Van Diemen's Land, hitherto regarded as a self sufficient outlying colony, was increasingly seen as a transportation terminus in its own right. Three developments in the post-Napoleonic era combined to ensure that the initial influx of convicts was maintained. First, the ending of hostilities was accompanied by a post-war "crime wave". A rising British conviction rate was exacerbated by a decline in home demand for convict labour (largely employed on defence projects) and the cessation of prison recruitment into the armed forces. Transportation to New South Wales, which for the last thirteen years had been intermittent, rapidly increased. Doubts were raised about the ability of that colony to absorb such large numbers of convicts and Van Diemen's Land was turned to as an obvious release valve. Secondly, as a result of the publication of several flattering accounts of the islands climate, topography, and long term economic prospects, Van Diemen's Land began to attract an unexpectedly large share of Australia bound migrant capital.<sup>2</sup> Finally, mounting treasury concern over the costs of transportation and the resultant publication of commissioner Bigge's reports of inquiry, led to a restructuring of convict management in both colonies.<sup>3</sup> These administrative changes had a particularly profound effect on the development of Van Diemen's Land.

It is clear that Commissioner Bigge's recommendations were largely based on observations made in New South Wales. He was highly critical of small scale arable

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<sup>1</sup> A.McKay, (ed.) *Journal of the Land Commissioners*, (University of Tasmania, Hobart, 1962) p.76.

<sup>2</sup> See W.C.Wentworth, *A Statistical, Historical and Political Description of the Colony of New South Wales and its Dependent Settlements in Van Diemen's Land*, (London, 1820); C.Jeffreys, *Geographic and Descriptive Delineations of the Island of Van Diemen's Land*, (London, 1820); T.Godwin, *The Emigrants' Guide*, (London, 1821) and Evans, *A Geographical, Historical and Topographical Description*, (London, 1822)

<sup>3</sup> Report of the Commissioner of Inquiry [J.T.Bigge Esq.] into the State of New South Wales; its Government and Police; Management of the Convicts; Their Character; State of society; Agriculture and Trade, 1822, (448.), XX, 539.-.; Report of the Commissioner of Inquiry [J.T.Bigge Esq.] The Judicial Establishments of New South Wales and Van Diemen's Land, 1823, (33.), X, 515.-. and Report of the Commissioner of Inquiry [J.T.Bigge Esq.] The State of Agriculture and Trade, 1823, X, (136.), 607.-.

farming in the latter colony and in particular the allocation of small blocks of land to ex-convicts. He envisaged that the future of the colony lay in the hands of large pastoralists and recommended that the granting of land should be limited to free immigrants with a minimum of £500 capital.<sup>1</sup> He enthusiastically approved of the distribution of convicts to settlers which he calculated saved the government £24/10/- a year per assignee.<sup>2</sup> For Bigge, the key to a cheap system of convict discipline lay in the geographical distribution of the better behaved convicts to the larger properties of the interior. Accordingly, he recommended that assignment to those who held less than fifty acres should cease, Macquarie's public works programme should be curtailed and that facilities should be constructed for the punishment of the worst class of convicts un-deserving of the 'indulgence' of assignment.<sup>3</sup>

As Van Diemen's Land was attracting precisely the type of free immigrant of whom Bigge so enthusiastically approved, his recommendations were particularly applicable to that colony. These settlers have been described as typically belonging to the ranks of the lesser British gentry, a class which had been hard hit by the post-war squeeze on the landed.<sup>4</sup> Men of small fortunes, they came to Van Diemen's Land in search of colonial respectability. Above all, however, they were drawn from the type of gentlemanly élite which according to Newby were, in a British context, "the embodiment of paternalism". Shocked at the laxity of master, servant relationships on small-scale farms, Bigge hoped that by encouraging an appropriate settlement pattern, convicts could be placed in the type of deferential master/servant environment which encouraged moral reformation.<sup>5</sup> He perceived that the transplanting of a landed élite would reproduce the hierarchy and stability so evident in the British rural landscape. That is, a notion of hierarchy which embodied a strict code of ethics and a social ordering which would seek to legitimize the stabilization of power through the exercise of local paternalism. In short, a society which would mirror the ideology of the convict administration, rewarding the "deserving", yet expecting all those dependent on the "big house" to curtsy, remove hat and touch forelock.<sup>6</sup> By the late 1830s there were perhaps 250 such landed families established in Van Diemen's Land, many of them

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<sup>1</sup> Hartwell, *The Economic Development of Van Diemen's Land*, pp.36-37.

<sup>2</sup> A.McKay, 'The Assignment System of Convict Labour in Van Diemen's Land, 1824-1842', M.A. Thesis, University of Tasmania (1959) p.42.

<sup>3</sup> Shaw, *Convicts and Colonies*, pp.105 and Fletcher, *Landed Enterprise and Penal Society*, p.177.

<sup>4</sup> G.C.Bolton, 'The Idea of the Colonial Gentry', *Historical Studies*, Vol.13, No.51 (1968) pp.318-319 and Hartwell, *The Economic Growth Of Van Diemen's Land*, pp.36-37.

<sup>5</sup> R.Miles, *Capitalism and Unfree Labour: Anomaly or Necessity*, (Tavistock publications, London, 1987) p.101.

<sup>6</sup> H.Newby, 'The Deferential Dialectic', *Comparative Studies in Society and History*, Vol.17 (1975) pp.151-153.



interlinked by marriage ties.<sup>1</sup> Connell and Irving have argued that in many respects this aspiring gentry were successful in their aims, establishing by the 1830s something approaching a "regional ruling class" in the settled districts of Van Diemen's Land.<sup>2</sup> A position which was further consolidated by their virtual monopoly of the magistrates bench, providing them with that crucial adjunct to regional management, power to punish the "wicked".<sup>3</sup>

While it is easy to exaggerate the extent to which the composition of settlement altered within these years it is certainly true that changes in the assignment regulations, the manner in which land was granted and the tendering of commissariat store contracts were not made with the smaller class of farmer in mind.<sup>4</sup> The rationale, according to the Bigge Report, was to foster the growth of a colonial wool industry thus reducing the dependency of the Australian colonies on the British treasury.<sup>5</sup> The general assumption of historians is that, in both Van Diemen's Land and New South Wales, the new accent in rural development was accompanied by radical changes in the structuring of the convict system. In particular, the pastoral expansion of the early 1820s and onwards is seen as inextricably linked with the aims and considerations of the convict administration who saw the expansion of landed estates as a "vast outdoor department of penal supervision."<sup>6</sup> As the composition of settlement changed the rules governing assignment were tightened. Although the effectiveness of the new regulations has never been explicitly tested, six categories of individual were in theory, if not practice, denied access to convict labour. These were innkeepers, expirees, convicts, relatives of prisoners, individuals who had previously infringed assignment regulations and those of "dissipated habits and broken fortunes".<sup>7</sup> As the supply of convict labour to the smaller emancipist farmers was checked, their traditional share of the market was also

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<sup>1</sup> D.Denholm, *The Colonial Australians*, (Penguin Books, Harmondsworth, Middlesex, 1979) pp.11 and 168 and M.Roe, *Quest for Authority in Eastern Australia, 1835-1851*, (Melbourne University Press, Carlton, Victoria, 1965) p.35.

<sup>2</sup> Connell and Irving, *Class Structure in Australian History*, p.51.

<sup>3</sup> Connell and Irving, *Class Structure in Australian History*, p.34 and Roe, *Quest for Authority*, p.41.

<sup>4</sup> In all 68% of the grants made prior to 1820 were for blocks of less than a 100 acres. Yet, only 41 grants of this size were made between December 1823 and January 1834 amounting to just 2.6% of the total land alienated. By contrast, 52 grants of 1000 acres or more were made over the same period, accounting for over 68.5% of the Crown land settled between these dates. 'Returns Relating to the Sales of Lands, and Grants and Appropriations of Crown Lands in Van Diemen's land', *P.P.*, 1836, XXXIX, (49), 605.- pp.6-8. Prior to January 1822, the store provided a guaranteed market for all settlers. Despite protest from Lieutenant Governor Sorell, Brisbane removed what was effectively a system of state protection by opening up the store to competitive tendering. It is assumed that the new arrangements were more favourable for larger rather than smaller producers. *H.R.A.*, III, 4, pp.136, 313 and 353.

<sup>5</sup> Report of the Commissioner of Inquiry [J.T.Bigge Esq.] *The State of Agriculture and Trade, 1823*, X, (136.), 607.- p.17

<sup>6</sup> Connell and Irving, *Class Structure in Australian History*, p.34.

<sup>7</sup> McKay 'The Assignment System', pp.89-94.

threatened. Despite the protests of Lieutenant Governor Sorell, the quota purchasing system was abolished altogether in January 1822 by Governor Brisbane.<sup>1</sup> Henceforth, the store operated on a competitive basis, refusing to accept tenders below a certain quantity, nominally 100 bushels of wheat and 2000 lbs of meat.

While the vast majority of emancipists lacked the means to take advantage of the export opportunities opened up by wool, their share of the traditional market was thus challenged.<sup>2</sup> The demise of the independent small farmer attracted little comment, but where this was forthcoming, it was on the whole unsympathetic. For example, the Land Commissioner's reported in 1828 that,

Norfolk Plains has always been described as containing the greatest proportion of bad characters in the island, they are now fast disappearing, and the small wretched farms with miserable skillings, are now occupied by respectable proprietors. It now bids fair to be a most flourishing settlement.<sup>3</sup>

By "flourishing settlement" they envisaged the construction of a new pattern of villages and farms contained within a "distinctive rural hierarchy." A hierarchy headed by a rural élite which would supervise the development of the landscape, settling their own protégé, that is former servants of exceptional character, and privately assisted migrants, on leased land within the boundaries of the estate. Indeed, the very names of these estates were an embodiment of the aspirations of the landed. Some like Anthony Fenn Kemp's 'Mount Vernon' and Edward Lord's 'Quorn Hall' underscored the owners new found respectability.<sup>4</sup> Others, like Donald McLeod's 'Talisker', provide more direct evidence of the type of landscape that the colonial élite sought to reproduce.<sup>5</sup> But landscape extended further than names, Van Diemen's Land with its cooler climate and rolling hills was felt to be "degrees nearer home."<sup>6</sup> Other commentators invoked more direct parallels, James Dixon, for example, compared the topography which encircled the Midlands Plain to the "Downs we have in England."<sup>7</sup> Home, however, was brought even closer through the carving up of the land into corn

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<sup>1</sup> HRA., III, 3, pp.136, 313 & 353.

<sup>2</sup> Connell and Irving, *Class Structure in Australian History*, p.39.

<sup>3</sup> McKay, (ed.) *Journal of the Land Commissioners*, p.76.

<sup>4</sup> Roe, *Quest for Authority*, p.37.

<sup>5</sup> Major Donald McLeod, of the 73<sup>rd</sup>. Reg<sup>t</sup>. and 3<sup>rd</sup>. Invernesshire Militia, emigrated to Van Diemen's Land in 1820. In a memorial to Lord Bathurst, McLeod claimed to be: "one of the very first persons of respectability in the rank of a Gentleman who came to the Colony decidedly as a settler." A Tacksman from Skye who had married into the McLean's of Coll, 'Talisker' was far more than a reminder of the land of his "Fathers". The name was an assertion of both his Highland status and colonial respectability. A.O.T., C.S.O. 1/198/4677, Major D.McLeod to Lord Bathurst, March 1836.

<sup>6</sup> Roe, *Quest for Authority*, p.47.

<sup>7</sup> Dixon, *Narrative of a Voyage*, p.34.

fields and meadows and the activities of the Colonial Improvement Society who introduced, blackbirds and thrushes to the hedgerows and trout and perch to the colony's rivers.

As Michael Roe observes, while this gentry was "sympathetic to the growth of a dependent tenantry, (they) looked askance at any other form of small-farmer interest."<sup>1</sup> The world they sought to create was the world of the planned settlements of Kempton, Bothwell, Oatlands and Longford. Lying in the heart of the "agricultural districts" these were clusters of "substantial" cottages constructed under the supervision of the local landowner, who also provided through "industry" or influence, an Anglican church, a school and a benefit society.<sup>2</sup> From these rural centres "concentric rings of economic clientship" extended outwards encompassing all manner of service industries which depended on the business of the estate and its settlement annexe.<sup>3</sup> It was hoped that tight local control coupled with a system of obligations and acquired rights would extinguish the petty disputes, illicit distilling and stocktheft which was thought to characterise the haphazard settlement fostered under the early Governors.<sup>4</sup> For, as E.P.Thompson has shown, gentry everywhere make a habit of labelling the mass of common people who exist outside of their control as "idle and disorderly."<sup>5</sup>

As the small farmers settled in the previous decade melted away or were subsumed within the new social order, a few voices were raised in protest. A "freedman", for example penned the following in 1829:

If no immigrant had come out here, to claim not only the exclusive possession of the soil, but also of all the powers, emoluments, and honors of the state, would not the original regulations have still been adhered to, of giving small land grants to free men? Would not this Colony at the present moment have been more populous, more rich, more cultivated, more advanced in every thing but aristocratic feeling, than it is at present?...if the Secretary of State for the Colonies should perpetuate the exclusionary system, evil consequences are certain. I trust, however, that this mischievous policy will not be followed even at the suggestion of Mr Commissioner Bigge, or any other of the aristocracy.<sup>6</sup>

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<sup>1</sup> Roe, *Quest for Authority*, p.50.

<sup>2</sup> Roe, *Quest for Authority*, p.48.

<sup>3</sup> E.P.Thompson, 'Patrician Society, Plebian Culture', *Journal of Social History*, Vol.7, No.4 (1974) p.385.

<sup>4</sup> A.Atkinson, *Camden: Farm and Village Life in Early New South Wales*, (Oxford University Press, Melbourne, 1988) pp.4, 16-17 and 21.

<sup>5</sup> Thompson, 'Patrician Society, Plebian Culture', pp.385-6.

<sup>6</sup> *The Colonial Times*, Sept. 18, 1829.

Although the complaints and grievances of the emancipist farmers and graziers were rarely voiced in the pages of the colonial press, these sentiments provide a good illustration of the conflicting values of the small scale independent settler and the growing body of landed proprietors. According to the rural élite, however, that conflict was not manifest in the letters' page of the morning newspaper, but in the armed intrusions the gentleman suffered in the supposedly safe confines of his own home. Bushranging, along with other forms of rural disorder, was held to be inseparably linked with the haphazard settlement pattern which survived beyond the estate boundary. Thus, as Major McLeod put it, the settlers at Norfolk Plains "...harbour and connive at all the petty robbers in our neighbourhood."<sup>1</sup> The problem is, that according to traditional interpretations, the old emancipist settlement pattern crumbled fast in the 1820s and for all intents and purposes, disappeared altogether in the following decade. From 1818 onwards government pronouncements against the harbouring of bushrangers were directed, not against settlers, but a landless class of squatters, shingle-splitters, charcoal burners and kangaroo hunters, living beyond the boundaries of the settled districts.<sup>2</sup> Despite the elusive nature of these "communities", it is apparent from the observations of contemporaries that a lawless tradition survived on the frontiers of Van Diemen's Land settlement through the course of the transportation era. "'Rural population'! It is almost profane to apply the title to these rascals." was the verdict of John Mitchel, the Irish political transportee writing in the early 1850s.<sup>3</sup> Yet, the squatter was seen as contributing to only a part of a much wider problem.<sup>4</sup> From the early 1820s onwards observers became far more concerned with the suspicion that clandestine links existed between the bushrangers and the assigned servant population and in particular with convict stock-keepers.<sup>5</sup>

This is an observation which has not escaped the attentions of Margret Korbell. In her study of bushranging in the decade 1824-1834, the latter argues, that the values of the "bush proletariat" were expressed in the popular image of the bushranger who doubled

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<sup>1</sup> Major Donald McLeod to Governor Arthur, Claggan, 7 September 1829, A.O.T., C.S.O. 1/74/1632.

<sup>2</sup> *Hobart Town Gazette*, 3 October 1818, *Hobart Town Courier*, 14 March 1829, *True Colonist*, 31 December 1833 and S.Roberts, *A History of Australian Land Settlement 1788-1920*, (Frank Cass, London, 1969) p.187

<sup>3</sup> J.Mitchel, *Jail Journal of John Mitchel, Prisoner in the Hands of the English*, (*The Citizen*, New York, 1854) reprint (Sphere Books, London, 1983) p.225.

<sup>4</sup> The term squatter is used here in its original sense to mean a small cultivator, grazier or other person of independent, or semi-independent, means residing wholly or partly on crown lands without a license. The Australian usage of the term changed after the pastoral expansion of the mid-nineteenth century to mean a man, or women, who expropriated large runs of government land for his or her use. Over time the word squatter became associated with status and respectability as in a "squatocracy". Roberts, *A History of Australian Land Settlement*, p.187.

<sup>5</sup> *Hobart Town Gazette*, 14 October 1826.

as the aggressor of those forces who represented the antithesis of the convict out look, that is, masters and the administration. Concerned primarily with the activities of the mid-1820s bushranger Matthew Brady, she draws on official correspondence and newspaper accounts in an attempt to demonstrate that contemporary portrayals of Brady and other bushrangers are consistent with Hobsbawm's definition of the social bandit. However, while she produces much evidence to suggest that several bushrangers were related to the status of folk hero, it is her assumption that the assigned population can be used as a proxy for Hobsbawm's "traditional peasantry" which is questionable.<sup>1</sup>

It is difficult to see how this analysis can be sustained. When Korbell talks about Van Diemen's Land as essentially a "rural" society, she is referring to the farm and the estate rather than the emancipist "village" community which features in Canteri's work. Rather than the subtle 'class' structure that Mills and Short associate with the open village,<sup>2</sup> or the high degree of local unity which Hobsbawm cites as the crucial characteristic of the "traditional peasantry",<sup>3</sup> Korbell has located social banditry within an environment characterised by a high degree of vertical stratification. The convict assigned to the gentleman's estate lived and worked in a world which was very different to that contemporaries associated with the early years of small-scale regional settlement.<sup>4</sup> Far from there being little to distinguish the convict from his master and/or mistress, the estate operated in a manner which was designed to emphasise the gulf in status between worker and employer. This was visible in the very layout of the estate environment. Male convicts were usually billeted away from the "big house".<sup>5</sup> While some female domestics resided in servants' quarters within the walls of the main property, they were required to use the backstair as opposed to the front. Indeed a "gentleman's house" was defined as such in terms of its layout and the most appropriate form of construction was that which kept contact between master and servant to a minimum. Servants were expected to be on hand but not seen until required.<sup>6</sup> A situation which contrasts sharply with the shared table, labour, leisure and

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<sup>1</sup> Korbell, 'Bushranging in Van Diemen's Land', pp.2, 3, 24, 28, 54, 58 and 61-63. For reference to convicts as a "bush proletariat" see R.Ward, *The Australian Legend*, (Oxford University Press, Melbourne, 1966) pp.9-11, 19-20, 75, 88-89 and 151.

<sup>2</sup> Mills and Short, 'Social Change and Social Conflict in Nineteenth-Century England', p.259.

<sup>3</sup> Hobsbawm, 'Peasants and Politics', p.3.

<sup>4</sup> See Hirst, *Convict Society and its Enemies*, pp.96-97.

<sup>5</sup> See plan of Burlington Farm, Pansanger Estate, A.O.T., C.S.O. 1/547/11913.

<sup>6</sup> For example at Donald McLeod's property *Claggan*, the kitchen was actually housed in a separate building. The convict cook thus worked in an environment removed from that used by the family. Presumably, meals were brought in through the back door of the estate house. Information on oath of William Ward, A.O.T., C.S.O., 1/411/9270.

profits which Alexander Harris observed amongst the Hawkesbury River ex-convict farmers and their workforce.<sup>1</sup>

This hierarchy was also evident in the organisation and division of labour. By the 1820s overseers were commonly employed on farms. Thus, an intermediate layer of supervisory management existed between the unfree and their master. Usually a freeman and resident in his own cottage, the supervisor was a crucial link in a whole chain of hierarchy which emanated from the "big house".<sup>2</sup> Below him were the free workers, appointed on wage contracts or hired on a daily basis. Within the colonial job market, free workers competed with the pool of unfree labour released by the colonial authorities for assignment to private individuals. As competition prevented the non-convict section of the labour force from attaining a wage equivalent to their marginal revenue product, the work environment concealed much hostility between the free and unfree sections of the labour force. This hostility was played out in status divisions and slurs which spilled over into the organisation of free labour unions and their associated anti-transportation movements.<sup>3</sup> Even within the organisation of the estate's convict workers, status divisions were implicit. Unlike the small agricultural unit with a limited workforce, there was no need to rotate labour between many jobs according to the dictates of the annual cycle of production, for the size of the labour force allowed for task specialisation.<sup>4</sup> The importance of this is that it permits the introduction of incentive differentials. By separating workers according to skill each estate employed its own miniature see-saw of incentives and coercion. Whereas the estate blacksmith residing in his own workshop rode on the elated end of the plank, beyond the pivot where positive and negative incentives balanced out, the unskilled laboured in carrying and clearing gangs under the threat of clothing withdrawals, ration cuts and the lash. In short the estate was wrought as a hierarchy and down that hierarchy paternalism and authority flowed. In effect, it was as different from the emancipist dominated farming community as chalk is from cheese.<sup>5</sup>

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<sup>1</sup> A.Harris, *Settlers and Convicts*, (n.p., London, 1847) reprint (Melbourne University Press, Carlton, Victoria, 1977) pp.67-68.

<sup>2</sup> Examination of John Tait, A.O.T., C.S.O. 1/547/11913.

<sup>3</sup> M.Quinlin, 'Trade Unionism and Industrial Action in Tasmania 1830-1850', *T.H.R.A.*, Vol.3, No.1, (1986) pp.14 and 19; Hartwell, *The Economic Development of Van Diemen's Land*, pp.65 and 85-93; H.Reynolds, "'That Hated Stain': The Aftermath of Transportation in Tasmania, *Historical Studies*, Vol.14, No.53 (1967) p.27 and S.Nicholas, 'The Convict Labour Market', in S.Nicholas (ed.) *Convict Workers*, pp.116-118.

<sup>4</sup> Harris, J.W. 'The Organisation of Work on a Yeoman Slaveholder's Farm', *Agricultural History*, Vol.64, No.1 (1990) pp.39-52.

<sup>5</sup> Mills, *Lord and Peasant in Nineteenth Century Britain*, pp.27 and 60-61.

#### IV

"From prostitution to legal counsel."<sup>1</sup>

A new look at the emancipist economy.

Recent re-interpretations of emancipist participation in the early economy have also placed limitations on the application of Hobsbawm's model of social banditry to Australia's convict era. As Butlin has demonstrated, the conventional histories present a view of white settlement which is seeped in "convictism and vice, poverty and rum".<sup>2</sup> However, within two decades of landing the settlements in New South Wales and Van Diemen's Land had achieved a per capita standard of income comparable with that of Britain. While Butlin acknowledges that there were great inequalities within the early settlements, he argues that if "the achievement is correctly represented, the poverty, vice etc. cannot have been as prominent as the historians have represented."<sup>3</sup> One of the reasons why the degree and speed of this achievement "remains a mystery" is that historians and economists have approached early Australian history with a set of preconceived notions.

Butlin claims that historians have been obsessed with the poor quality of the convict labour force ignoring the rich diversity of skills which transportation brought to Australia. He argues that it is this view, in conjunction with the arguments of staple theorists, which has led to a gross misrepresentation of life in early white Australia. As discussed above, this traditional argument assumes that initial growth is dependent on the export of primary produce. While this function was fulfilled by the colonial wool industry in the years after 1830, in the first decades of settlement no single primary export commodity could be found to fulfil a comparable role. Thus, the infant settlements were forced to fall back on the purchasing power of the Commissariat which in effect formed a "staple market" for agricultural produce. Butlin argues that, while this thesis is an improvement on previous studies, it has led to an over emphasis on the importance of farming, an error which has, in part, been sustained by the early governors' preoccupation with agricultural settlement. Butlin maintains that this emphasis on primary production has obscured the early growth of manufacturing and service industries and that rather than farmers the "mass of the self employed were ex-convicts engaged in commerce, industry and services ranging respectively from sly-

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<sup>1</sup> Butlin, 'Free Lunches Antipodean Style', p.3.

<sup>2</sup> Butlin, 'Free Lunches Antipodean Style', p.1.

<sup>3</sup> Butlin, 'Free Lunches Antipodean Style', p.1.

grog shops to large-scale importing, from charcoal burning to silversmithing and from prostitution to legal counsel."<sup>1</sup>

This is not to say that the traditional interpretation of the operation of the colonial economy is entirely misleading. Butlin agrees that initial wealth was created primarily through the payment of British salaries and subsidies. However he argues that this capital didn't remain in the hands of a few but was circulated within the colony "diversifying the range of activities within the settlement".<sup>2</sup> In what he terms a "trickling-down process", Butlin describes how the accumulation of "officer" capital required a chain of transactions staffed by subordinates broadening the range of options open to emancipists. Yet, commenting on the diversity of occupations tabulated in the 1806 muster, Butlin argues that the demand created by a few wealthy individuals cannot alone account for this specialised occupational structure. He maintains that the answer to this paradox is two fold. In the first place specialisation encouraged further specialisation: thus, timber suppliers created a demand for carpentry skills which in turn provided employment for cabinet makers, and so on. Secondly, that to satisfy this local demand, opportunities had to be extended to those colonists with appropriate skills. Due to the small levels of free migration, this in practice, meant emancipists.<sup>3</sup> As Rimmer has argued, further incentives were provided by the total dependence of the early colonists on manufactured imports. Local manufacturers were able to compete with importers because of high shipping costs, and after 1815, lower labour costs. As in the early nineteenth century, craft industries predominated in both the British Isles and Australia, economies of scale could not be employed to stifle the growth of small scale colonial production units. As the demand for imported goods rose, so did the opportunities for import substitution, finishing and modification.<sup>4</sup>

Criticizing the lament common to many convict histories, that the British government failed to supply the embryonic settlements with appropriate agricultural skills, Butlin produces a startling counter-argument. Given its poor historical resource base and the lack of efficient internal and external communications, it would have been impossible for the colony to develop as rapidly as it did with a labour supply dominated by agricultural workers. He concludes that, "it is possible that a settlement populated by farm labourers would have ended in disaster or at least much larger outlays than the

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<sup>1</sup> Butlin, 'Free Lunches Antipodean Style', pp.1-3.

<sup>2</sup> Butlin, 'Free Lunches Antipodean Style', pp.41-42.

<sup>3</sup> Butlin, 'Free Lunches Antipodean Style', p.42.

<sup>4</sup> G.Rimmer, 'Hobart: A Moment of Glory', in P.Statham (ed.) *The Origins of Australia's Capital Cities*, (Cambridge University Press, Cambridge, 1989) pp.99-100.



British in fact incurred".<sup>1</sup> By switching the emphasis away from natural resources and staple industries, Butlin has opened up a new vista. As he himself argues, the 1806 muster indicates that a large proportion of the ex-convict workforce was self-employed, engaged in a wide range of specialised, often highly skilled occupations. He concludes, therefore, that it seems natural to assume that supplying goods and services compared favourably with the opportunities open to small scale farmers.<sup>2</sup>

Thus, while Butlin's work requires considerable fleshing out, it is evident that the traditional story of emancipist woe and misery requires substantial modification. With the exception of a few, well documented case studies, the growth of pre-1850 urban craft and service industries has received a sketchy press. In the absence of detailed investigations of other sections of the economy, historians have assumed that emancipist agricultural proprietors made up by far the greatest proportion of the ex-convict self employed. Yet, this is an assumption which belies the impressive growth record of urban manufacturing and retailing.<sup>3</sup>

There are several factors which contributed to this story. Perhaps curiously, it would seem that the labour shortage which accompanied the diminished supply of convicts during the Revolutionary and Napoleonic Wars played a significant role. While growth was hampered as the pool of unfree workers fell, wages to the emancipist labour force increased. As we have already seen, a shortage of internal currency gave rise to the common practise of paying labour in kind. As stock, land and other goods changed hands, a substantial section of the labour force received a share in the means of production. We should also note, that as argued in the previous chapter, convict mechanics in private and public service had access to relatively generous levels of incentives frequently supplemented by additional cash payments. These were often augmented through the provision of labour services to private individuals who engaged the labour of mechanics outside the government hours. It was thus not unusual for skilled convicts to accumulate private capital while still under sentence.<sup>4</sup> A second factor, which has been obscured by the emphasis placed on small-scale agricultural failure, is the value of the land gifted to emancipists. While early land grants were scattered, most were located in close proximity to the emerging townships of the 1820s. It was the larger settlers who received substantial grants up-country, while the

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<sup>1</sup> Butlin, 'Free Lunches Antipodean Style', pp.49-53.

<sup>2</sup> Butlin, 'Free Lunches Antipodean Style', p.54.

<sup>3</sup> See for example, The Wapping History Group, *Down Wapping, Hobart's Vanished Wapping and Old Wharf Districts*, (Blubber Head Press, Hobart, 1988) p.34.

<sup>4</sup> S.Nicholas and P.Shergold, 'A Labour Aristocracy in Chains', in S.Nicholas (ed.) *Convict Workers*, p.107 and Connell and Irving, *Class Structure in Australian History*, p.44.

smaller wheat farms were by and large located within easy access of water-borne communications with Hobart and Port Dalrymple. In accounting for the virtual disappearance of the emancipist farmer by the late 1820s, there is a tendency to assume that failure to maintain a hold in agriculture translates into economic failure. This is not necessarily the case, many small grants fetched considerable prices on the open market and this was especially the case in the immediate vicinity of the expanding port of Hobart. For example, in May 1831, John Dacres sold his 60 acre block at New Town to the auctioneer R.W.Fryett for £500 (£8-6/s. an acre) and prices of £20 an acre were not unknown. While it is impossible to access the value of capital improvements to Dacres' land, the price he obtained compares favourably with the valuation the Land Commissioners placed on good tracts of un-alienated land and that obtained for interior farms sold on the private market (frequently less than 6 shillings an acre). It was the development of New Town, fast emerging as the fashionable area of Hobart, which inflated the market value of Dacres' grant.<sup>1</sup>

Clearly, a full analysis of the colonial land market is a task which must necessarily lie beyond the scope of this thesis. It should be apparent, however, that land did not just represent the means to conduct just one form of business, small-scale farming. It was a freely bestowed capital asset, which under the colonial regulations, could be cashed in after five years residence. Lacking detailed background studies it is difficult to draw any firm conclusions, however, it is logical to assume that the decline in small scale landholding was not unconnected with the rise in small scale urban based business activity. One further aspect of regional settlement which has hitherto received scant attention, is the diversification of business activity from its initial base in land to encompass manufacturing and retail interests. The classic example, which also carries a warning for those who have criticized the lack of land "improvements" pioneered by the small scale settlement pattern, was the timber merchant. Thus, grants situated in the most un-promising locations in deeply wooded valleys and on the slopes of Mounts Wellington and Nelson could in fact represent a source of considerable economic opportunity. While the agricultural returns might suggest that subsistence farming was as far as the restricted vision of the "indolent" proprietor stretched, job descriptions reveal that a number of such small scale settlers used their land to provide timber for the Hobart market.<sup>2</sup> Other settlers combined farming with ship and boat building, brewing, baking, flour milling, innkeeping, transport services, tanning and shoemaking, to name

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<sup>1</sup> T.S.G., Deeds and Titles Office, Land Conveyance Registers 1831 and McKay (ed.), *Journal of the Land Commissioners*, pp.46-47.

<sup>2</sup> Job descriptions were obtained from two sources; the trade directories published in local almanacs and the descriptive titles employed by sellers, purchases and witnesses to Land Conveyances in the period 1827-1835.

but a few. For many of these businesses it was the foothold in land ownership which provided the opportunity to diversify into other economic spheres. Indeed, in a majority of cases the land continued to supply the raw materials upon which other activities relied, for example, flour, barley, wood, stone, hides, meat, brick earth, charcoal, bark and shells.<sup>1</sup>

This re-interpretation has profound implications for the traditional picture of the demise of the emancipist. Some, possibly a great many, of the original emancipist landowners did succumb to poverty, misery and vice and on the margins of settlement there remained a strata of small-scale squatters and shingle-splitters who carried on their own lawless tradition. We can assume that others were forced into the ranks of the colony's labour force.<sup>2</sup> Yet, examination of land transactions reveals that some emancipist families remained in farming, expanding their holdings to two and three hundred acres and occasionally beyond.<sup>3</sup> Others retained a foothold in land, but diversified their economic activities utilising those skills which they were more familiar with.<sup>4</sup> It appears that still more sold up their farms and used the resultant capital to found businesses of an all together different nature.<sup>5</sup> In Australia, convict pasts have an uncanny habit of evaporating into thin air. This reflects the profound influence that the rhetoric of the anti-transportation campaigns have had, and continue to have, on Australian perceptions of their convict history. Indeed, much of the historiography, and we must place Canteri's analysis in this category, has only served to strengthen a lean diet of indolent, conniving and squalid stories dished up by nineteenth century anti-convict factions. As recent revisionist accounts demonstrate, this vision of early Australia is out of step with the historical evidence.

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<sup>1</sup> Mimosa bark was an essential agent in the colonial tanning industry and large quantities of shells were collected and burnt to produce lime for the building industry.

<sup>2</sup> Examples include John Knowland and Thomas Moore described in the land conveyance registers as labourers on the sale of their land grants. Note that there were two emancipist settlers of the name of John Moore. Both were originally located at Norfolk Plains, the other becoming a baker in Launceston. T.S.G., Deeds and Titles Office, Land Conveyance Registers.

<sup>3</sup> Examples include the Presnell, Flexmore, Gibson and Kearney families. McKay (ed.), *Journal of the Land Commissioners*, pp.1, 5, 9-10, 21, 25, 53, 56, 72, 79 and T.S.G., Deeds and Titles Office, Land Conveyance Registers.

<sup>4</sup> Examples include Thomas Faro transported on the *Perseus* and granted land at Norfolk Plains but later described as a butcher resident in Launceston; the Jordan family, which opened up a tannery in the Breadalbane district and Richard White transported on the *Hillsborough* who became a successful auctioneer and inn-keeper. T.S.G., Deeds and Titles Office, Land Conveyance Registers.

<sup>5</sup> For example the Tibbs family who transferred their interests to baking and butchery and the *Calcutta* convict William Woolley who worked as a sawyer before receiving a thirty acre grant in the Pittwater district, but later set up as a cabinet maker in Hobart. Tipping, *Convicts Unbound*, pp.325-326 and T.S.G., Deeds and Titles Office, Land Conveyance Registers.

Clearly the peasant economy has a restricted place within this re-interpretation. In effect, Canteri's analysis is dependant on an historiography which has failed to take account of the full implications of the enforced removal of a cross-section of the British working classes to Australia. This failure has led to a serious under-estimation of emancipist involvement in the early development of the colonies of New South Wales and Van Diemen's Land. In short, the restricted local exchange system upon which the unity of the peasant village depends cannot be applied blanket fashion over the plethora of emancipist business activity uncovered by Butlin.

Yet, the fascination with Hobsbawm's model of social banditry has had a wider impact on the history of Australia's convict era. It has led historians to search for social bandits and "traditional peasants" wherever bushrangers have raised their heads. The danger is that, while it has long been accepted that in the period prior to 1850 bushranging is inextricably intertwined with the operation of the convict system, there has been a tendency to fashion the assigned worker into a proxy peasant. Conversely, historians have displayed a remarkable reluctance to examine bushranging within the context of a system which sought to exploit workers through the expropriation of property rights in their labour power. In part, this neglect has been succoured by the deep seated preconceptions that Australians' hold in relation to their bushranging past. Indeed, as we shall see, the historiography of slave resistance has long suffered from a similar inheritance: the vision of the plantation worker as stupid and indolent. Contrary to the prevailing accent of the literature, the following chapter will examine the activities of the bushrangers in relation to the society in which they operated, that is, as unfree workers in arms.

## Chapter 6

### **Play Up and Ruin the Game: Bushranging and the Convict System.**

Most historians of Australia's convict era are agreed that internal resistance to the transportation system was rare, sporadic and unorganised. Indeed, Manning Clark went as far as to say that not "a single man or woman from the ranks of the convicts (rose) up and damn (ed) the system under which they suffered."<sup>1</sup> Attacking Clark's sweeping generalisation, Humphrey McQueen claimed that while politically motivated agitation was non-existent, convicts employed their own less sophisticated apparatus of resistance. They "'damned the system', not with elegant phrases, but by their insolence and stubbornness, by smiling as the cat tore weals of flesh from their backs."<sup>2</sup> Contrasting the stability of the convict system with slave societies, Hirst argues that unlike imported slaves, the majority of convicts accepted the legitimacy of transportation. While individuals might be roused to denounce or even attack their masters, wholesale condemnations of "the system" were extremely rare.<sup>3</sup> According to Connell and Irving the convict experience could be summed up as a "sterile tragedy". Where groups of convicts did rebel they sought not to challenge colonial power relationships, but to gain early release and a passage home.<sup>4</sup>

There is a broad consensus of opinion that the paucity of the history of convict resistance is due the nature of the convicts themselves. Historians have argued that it was the social background of the convicts rather than the distribution of power relationships which accounted for the lack of a co-ordinated convict protest movement. Even Russell Ward, traced the roots of Australian working class hostility to authority back, not to a conscious resistance movement, but to a "freemasonry of felonry" based on honour amongst thieves. Reacting to Ward's interpretation of the founding of Australian "egalitarian class solidarity", McQueen argues that "It is misleading to clothe the convicts in the aura of class struggle since for its first fifty years Australia did not have a class structure, but only a deformed stratification which had itself been vomited up by the maelstrom which was delineating class in Britain".<sup>5</sup> McQueen asserts that if the convicts have to be classified their prevailing nature was petit bourgeois. Thus,

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<sup>1</sup> C.M.H.Clark, 'The origins of Convicts Transported to Eastern Australia, 1787-1852', *Historical Studies*, Vol.7, (1956) p.327

<sup>2</sup> H.McQueen, 'Convicts and Rebels', *Labour History*, Vol.15, (1968) p.30.

<sup>3</sup> J.B.Hirst, *Convict Society and its Enemies*, (George Allen and Unwin, Sydney, 1983) p.138.

<sup>4</sup> R.W.Connell and T.H.Irving, *Class Structure in Australian History, Documents, Narrative and Argument*, (Longman Cheshire, Melbourne, 1984) p.50.

<sup>5</sup> McQueen, 'Convicts and Rebels', pp.24-25.

there was no open challenge to the convict system as the convicts' aspirations were the same as the masters: capital accumulation. He concludes that far from representing some grand act of defiance bushranging fitted into this pattern, providing "those who could not 'make it' legally with an illegal means to the same end. The outlook and intentions were the same".<sup>1</sup>

The re-evaluation of Australia's convict migrant's pioneered by Nicholas and Shergold challenges not only the traditional interpretations of the functioning of the convict system, but also the historiography of power relationships and resistance. In seeking to explain the incidence of collaboration, the lack of sustained revolt and the crowded middle ground of "stilled tongues", historians can no longer shelter behind "Dickensian" flags of convenience. As *Convict Workers* has demonstrated, Australia's transportation era was not a unique experiment in penal policy, but part of a much wider history of unfree labour flows. The convict experience should be evaluated not in terms of the workforce's "intrinsic criminality", but in the light of the comparable experience of others workers denied property rights in their labour power.

The revolts of unfree workers have long occupied the attention of historians, yet this fascination with dramatic rejections of the hegemony of slave owners, boyers and colonizing companies has only served to distort our conception of the dynamics of unfree societies. Despite the historical importance they have assumed, rebellions were rare events and successful revolts are conspicuous by their almost total absence.<sup>2</sup> Indeed, the Australian experience of five revolts in eighty years of transportation, Castle Hill, (1804), Norfolk Island, (1826, 1834 and 1846) and Bathurst, (1830), is impressive compared to the major slave state of Virginia. With a much larger bond population, and over a greater period of time, the latter experienced only one full rebellion (Nat Turner's) and one major plot (Gabriel Prosser's). As Kolchin has written of the North American Mainland, "of the handful of 'major' slave rebellions, none involved more than a few hundred slaves or encompassed more than a local geographical area."<sup>3</sup>

As in Australia, the absence of violent rejection has posed problems for historians of unfree labour. As Genovese notes, slave societies, like all unfree societies, are by definition systems of class rule. They are characterised by the exploitation of a labour

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<sup>1</sup> McQueen, 'Convicts and Rebels', p.27.

<sup>2</sup> P.Kolchin, 'The Process of Confrontation: Patterns of Resistance to Bondage in Nineteenth-Century Russia and the United States', *Journal of Social History*, Vol.11, (1978), p.457.

<sup>3</sup> Kolchin, 'The Process of Confrontation', p.457.

force denied property rights in its own labour power.<sup>1</sup> Indeed, with their common experience of wage labour in the economy of the British Isles and Empire, convict workers cannot but have been conscious of the mechanics of that exploitation. They displayed this awareness in their readiness to pilfer from their masters to the equivalent of a working wage, in their refusal to accept kangaroo meat and game as either ration or incentive and, above all, in the language of day-to-day negotiation and confrontation. E.P. Thompson's dictum is particularly pertinent: "Class is defined by men as they live their own history, and, in the end, this is its only definition."<sup>2</sup> As Alan Atkinson has shown, and as this thesis has sought to expand and structure, class relationships were explored, under-scored and manipulated in an ever-present dialogue between masters and convicts.<sup>3</sup> When Joseph Shaw, servant to John Meredith, knocked on constable Amos' door and stated that "Mr Meredith's people would not give him cloaths that he is going without a shirt... and has therefore refused to work", Shaw was defining his own history.<sup>4</sup> The quandary is, that while convicts, like other unfree workers, passed their own, often witty, judgements on the mechanisms of exploitation, rejections of the hegemony of their exploiters were rare.

In accounting for the absence of outright rebellion historians have turned to two strategies. As the historiography of Australia's penal era bares testimony, they have displayed a tendency to seize on the ideology of the exploiters. Thus, as Kolchin demonstrates, a theme common to many slave histories is that "slavery, by its very nature, created docile beings who were ill-suited to rebel against their thralldom."<sup>5</sup> This is a theme which reiterates the plantocracy's characterisation of the enslaved as children of unformed intelligence, lazy in their habits and totally dependent on their white "father" in the "big house".<sup>6</sup> A view personified in the white characterisation of "Sambo". In Australia the convict histories have uncritically deployed the contemporary slur of criminality, a slur which performed the same function as plantation racism, growing out of the need to subject and yet morally justify that subjection.<sup>7</sup> Their second strategy has been to examine the "small, day-to-day forms of resistance to bondage", feigning, sullen expressions and poor workmanship.<sup>8</sup> In Australia both strategies are

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<sup>1</sup> E. Genovese, *Roll Jordan Roll: The World the Slaves Made*, (Pantheon Books, New York, 1974) p.3.

<sup>2</sup> E.P. Thompson, *The Making of the English Working Class*, (Penguin, Harmondsworth, Middlesex, 1968) p.10.

<sup>3</sup> A. Atkinson, 'Four Patterns of Convict Protest', *Labour History*, No.37, (1979) pp.42-43.

<sup>4</sup> Diary of Adam Amos, March 6 1824, A.O.T., N.S.323/1.

<sup>5</sup> Kolchin, 'The Process of Confrontation', p.457.

<sup>6</sup> M. Craton, *Testing the Chains: Resistance to Slavery in the British West Indies*, (Cornell University Press, New York, 1982) p.16.

<sup>7</sup> Genovese, *Roll Jordan Roll*, p.4.

<sup>8</sup> Kolchin, 'The Process of Confrontation', p.457.



interlinked. As Nicholas has written, the emphasis on malingering "confirms the convicts as lazy shirkers, crafty, scheming criminals intent on avoiding hard work."<sup>1</sup> Neither position does justice to Australia's convict legacy or provides an adequate basis for an analysis of the failure of outright rejection to materialise.

This thesis has sought to examine the nature of the convict system in Van Diemen's Land through an analysis of a minority of convicts who put into action the desires of all unfree workers and struck out to obtain their freedom.<sup>2</sup> On this definition, the bushrangers were convict rebels, for like many convicts they sought that freedom by escaping from their place of work, yet unlike the majority they attempted to maintain and extend that liberty through use of force. This was a course of action which brought them into direct conflict with the convict administrators, it was also, however, a course which impinged on the lives of all connected with the convict system. In particular it presented the rest of the convict population with set of choices. While this section will examine the path that the bushrangers attempted to take to freedom and the conflict which this entailed, it will also examine the response of the convict population to the range of options that the activities of the bushrangers presented them with. In short bushranging will be examined not as a product of convictism but as an integral part of the convict system: as a dialogue of conflict between the exploited and the exploiters.

## I

"(He) would be no man's slave, and to cast off the yoke of such subjection was, perhaps, the main object he contemplated."<sup>3</sup>

### **Convict bushranging in Van Diemen's Land.**

Although neglected by the twentieth-century literature, bushranging has distinct parallels with forms of resistance common to other unfree societies which have long been recognised as important alternatives to mass rebellion. Indeed this parallel was not lost on nineteenth century observers, for as Thomas Wells opened his account of Michael Howe's bushranging career:

As a leader of a band of desperadoes, Howe may not unaptly be compared with Three-fingered-Jack, who was so long the terror of the peaceable settlers in the plantations of Jamaica; and who,

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<sup>1</sup> S.Nicholas, 'A New Past', in S.Nicholas (ed.) *Convict Workers*, (Cambridge University Press, Sydney, 1988) p.199.

<sup>2</sup> See Craton, *Testing the Chains*, p.16.

<sup>3</sup> J.West, *History of Tasmania*, (Henry Dowling, Launceston, 1852) reprint (Libraries Board of South Australia, Adelaide, 1966) Vol. 2, p.131 description of Michael Howe.

notwithstanding every exertion to take him, long ranged the woods of that island, committing the most cruel and daring acts of murder and robbery, until, from the large rewards offered by Government, he was arrested by the hands of justice.<sup>1</sup>

Three-fingered-Jack was a maroon, that is, a runaway slave subsisting in the interior of the island in an autonomous or (after the signing of the maroon treaties) semi-autonomous relationship with the colonial administration. Faced with an imminent English invasion, the Spanish armed and released approximately 1,500 slaves in 1655. In the long history of English and, later, British rule, some Maroon communities managed to maintain their independence. Surviving through a combination of military skill, tact and diplomacy until after the departure of the British in 1962.<sup>2</sup> While the longevity of the Jamaican Leeward and Windward maroon communities was exceptional, this pattern of resistance was not. In North Carolina and Virginia runaway slaves took refuge in the Great Dismal Swamp, some groups surviving for as long as twenty or thirty years. In South Carolina runaways established communities across the border in Florida.<sup>3</sup> In the Spanish Colony of New Granada (modern Colombia), runaway slaves or *cimarrones*, established in fortified *palenques*, fought a series of localised campaigns with the Spanish authorities. While open revolts were almost unknown in the Cape Colony, groups of runaway slaves and Khoi farm hands survived by raiding farms and retreating to mountain areas to allude the pursuing Afrikaans commandos.<sup>4</sup> And in Southern Angola plantations continued to suffer attacks from runaway Herero slaves until the period just before the First World War.<sup>5</sup>

Thus, while with a few notable exceptions, mass revolts have been rare events in the history of unfree labour, many workers took another option which, although limited in scale and objectives, mirrored the rejection of domination implicit in any outright revolt. While thousands of slaves, indentured workers, 'native' labourers and convicts withdrew their labour power and ran from the workplace, a few managed to sustain that protest by remaining 'out' for longer periods. Seeking protection in the natural fastness

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<sup>1</sup> T.Wells, *Mike Howe, The Last and Worst of The Bushrangers*, (Hobart, 1819) reprint (Platypus Press, 1966) p.6

<sup>2</sup> R.B.Sheridan, 'The Maroons of Jamaica, 1730-1830: Livelihood, Demography and Health', in G.Heuman, (ed.) *Out of the House of Bondage: Runaways, Resistance and Maronage in Africa and the New World*, (Frank Cass, London, 1986) p.154 and Craton, *Testing the Chains*, p.61.

<sup>3</sup> M.L.M.Kay, '"They are Indeed the Constant Plague of Their Tyrants": Slave Defence of a Moral Economy in Colonial North Carolina, 1748-1772', in G.Heuman, (ed.) *Out of the House of Bondage*, pp.40-41.

<sup>4</sup> R.Ross, *Cape of Torments: Slavery and Resistance in South Africa*, (Routledge and Kegan Paul, London, 1983) p.36.

<sup>5</sup> W.G.Clarence-Smith, 'Runaway Slaves and Social Bandits in Southern Angola, 1875-1913', in G.Heuman, (ed.) *Out of the House of Bondage*, p.29.

of swamps, mountains and rainforest, groups of escapees maintained an existence by preying on the properties of their erstwhile owners and employers. As in Australia these actions invoked a standard response from the establishment, armed runaways were categorised as "banditti", that is criminal robbers. Rewards were posted for their capture and troops and local militia were mobilised to hunt them down.<sup>1</sup> In Van Diemen's Land, throughout the transportation era a guerilla war was fought on the margins of settlement which at its height absorbed the attentions of some four hundred British regulars and upwards of one hundred and fifty colonial auxiliaries, settlers and police.

On the opposing side, the number of armed convicts remained small.<sup>2</sup> Yet, despite the imbalance in forces bushranging had a profound impact on settler society and by the mid-1830s some one hundred and fifty farms and colonial estates had been subject to attack. As in other unfree societies, the maroons of Van Diemen's Land proved to be a major thorn in the side of the colonial authorities. It seemed that as soon as one group was extinguished, a new one appeared to take its place, costing the administration thousands of pounds in policing and bills of compensation.<sup>3</sup> Despite the rigours of life on the run and the considerable personal dangers that bushranging entailed, the trickle of new recruits was enough to maintain the island's bushranging tradition until at least 1859.<sup>4</sup> Any analysis of the impact of bushranging on the convict system should thus begin with an examination of the factors which induced some convicts to embark on this violent road to freedom.

In the previous chapter, we examined the growth of bushranging in Van Diemen's Land during the period of early European settlement. We saw that both Marie Fels and Carlo Canteri have made a persuasive case that the initial impetus was provided by economic opportunities rather than a desire to escape the brutalities of the convict system. As bushranging developed, however, it became increasingly characterised by armed attacks on settlers' properties and administrative counter-offences. There are several indications that bushranging became a vehicle of expression for acute convict

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<sup>1</sup> O.Patterson, *The Sociology of Slavery: An Analysis of the Origins, Development and Structure of Negro Slave Society in Jamaica*, (Fairleigh Dickenson University Press, Rutherford, 1969) p.272.

<sup>2</sup> Reports like that of the *Colonial Times*, 12 August 1825, that upwards of a hundred bushrangers roamed the island, appear to be gross exaggerations.

<sup>3</sup> As property rights in convicted labour were vested in the Crown, the public administration was liable to pay compensation to those private individuals who suffered at the hands of escaped convicts.

<sup>4</sup> The last Tasmanian bushranger of whom I am aware of, was "Black" Peter Haly. Haly was tried at Adelaide Supreme Court in November 1850 for stealing a horse and transported to Van Diemen's Land in 1851 per *Antares*. A native of the Cape Colony, he was tried and executed for shooting with attempt to murder while illegally at large on 16 February 1859. I am indebted to Dr Ian Duffield of the Department of History, University of Edinburgh, who supplied transcripts of Haly's convict record.

dissatisfaction. By employing the information recorded in *Gazette* notices it is possible to plot the distribution of work locations from which bushrangers absconded in the period after 1820 (see Table 6.1). As with absconding, the data strongly suggests that after 1820 'push' factors accounted for more bushranging recruits than the lure of clandestine economic opportunities. This analysis is supported by surviving testimony provided by the bushrangers themselves.

**Table 6.1      Last recorded work location for Van Diemen's  
Land Bushrangers, 1820-1846.**

Location	No.	(%)
Free by servitude or ticket of leave.	4	1.7
Assigned service or on loan.	23	9.8
Public works grades one and two and hiring depots.	31	13.2
Road, probation gangs and working parties.	67	28.6
Chain gangs and confinement.	41	17.5
Penal stations.	68	29.1
Total	234	99.9

Sources: Advertisements for absconded prisoners: *Hobart Town Gazette* and *Hobart Town Courier*.

N.B. Relevant data could not be located for 70 cases (23 percent of sample)

While the bushranging outbreaks of the early 1820s continued to be associated with organised stock theft, the complex associations between the outlaws and the receivers of stolen beasts, characteristic of the bushranging operations of the previous decade, became less pronounced. Accusations of stock theft continued to provide recruits for bushranging gangs, but those gangs began to restrict their operations to attacks on settlements.<sup>1</sup> When they turned their attention to the herds and flocks of the interior it was more as a convenient source of food than an attempt to obtain an exchangeable commodity. This change in strategy was a product of several factors. Perhaps the most important of these was the opening of the store to competitive tendering. While, as discussed in the previous chapter, there is evidence that some of the bushrangers' clients belonged to the ranks of the colonies "respectable" élite, it appears that it was the smaller suppliers of meat who had most to gain by cutting their tender quota with stolen

<sup>1</sup> Examples of bushranging recruits who escaped into the interior after being accused of stock-theft include Walter Archibald, per *Chapman*, (N.S.W.) and *Jupiter*, (V.D.L.) No.11, *Hobart Town Gazette*, 18 May 1822 (Archibald was sentenced to Macquarie Harbour but made his escape in 1825. He was never recaptured and was finally stuck off the convict records in December 1853); Ralph Churton, per *Indefatigable*, No.1, William Davis per *Gambier*, both *Hobart Town Gazette* 18 January 1823.

stock. As the Commissariat raised the minimum weight qualification for tenders, the small scale supplier was effectively debarred from trading produce at the store, thus depriving the bushrangers of their most lucrative source of business. A second factor was the decline in livestock values occasioned by the abolition of the fixed price system and the growth in livestock numbers which continued to outstrip population growth. Rustling was also fraught with new dangers. The appointment of pound keepers and stock inspectors and the expansion of the district constabulary compounded the risk of detection, as did the increased use of brands and the government's insistence that livestock supplied to the public slaughter house was satisfactorily accounted for. Stock theft was thus driven underground and the open association between the receivers of stolen animals and the bushrangers which existed prior to 1822 became less pronounced.<sup>1</sup>

As the bushrangers turned their attention to the dwellings of settlers fears were raised that attacks were fuelled by a desire for retribution. As we shall see, these concerns were not entirely unfounded and several bushrangers gave as the chief cause of their resort to fire arms the treatment they had been subjected to in assigned service. James Regan was particularly scathing about his former master G.C. Clarke of Ellenthorpe Hall.<sup>2</sup> And John Morrell, who was recognised by one of Charles Reed's servants as a former employee stated at his trial "that bad usage drove him into the bush; that he had no clothes or anything."<sup>3</sup> Concerned at this violent trend, the colonial press repeatedly stated that bushranging was a product of abuses of the assignment system. The *Hobart Town Gazette*, for example, gave prominent coverage to the statement of the bushranger John Plumb. Plumb and his fellow stock-keeper Walls had lived in a state of near starvation in a stockhut on Mike Howe's Marsh while in the employ of a Mr Franks. Deprived of adequate rations by their master, the paper disclosed that they were kept alive by the supply of provisions maintained by Matthew Brady and his fellow bushrangers. When this connection was discovered, Plumb opted for a life in the bush rather than explain his association to the district magistrate, a story which the *Colonial Times*, considered a near "justification of ...(his) conduct."<sup>4</sup>

Most bushrangers, however, commenced their career by escaping from a government work location, (see Table 6.1). Although some blamed their demotion to public works

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<sup>1</sup> That is, the year that the store was opened up to competitive tendering.

<sup>2</sup> James Regan per *Elphinstone*, No.1131, *Hobart Town Courier*, 20 June 1838.

<sup>3</sup> John Morrell could not be matched with a convict indent and thus may have been a free arrival convicted colonially. *Hobart Town Gazette*, 9 June 1821.

<sup>4</sup> John Plumb, per *Lord Hungerford*, No.204. *Colonial Times*, 25 March 1825.

gangs on the malicious attitude of private employers many others cited the prevailing conditions in road gangs and penal stations as the cause of their decision to bolt. John Dyarmott, for example, exclaimed "I am driven more like a brute than a Christian by my overseer, and I am forced to abscond."<sup>1</sup> And John Higgins stated "that he was compelled to fly to the bush in consequence of ill-treatment he had received in the gaol-gang."<sup>2</sup> Of all the claims of public sector brutality, however, the most dramatic was that voiced by William Green at his Supreme Court trial. Green, was an absconder from Port Arthur, arraigned on a charge of robbery at Betsy Island and Mount Communication. However, although two of his comrades were condemned to hang, as Green was not armed at the time of the gang's apprehension, he was sentenced to transportation for life. On hearing of his fate he made a long impassioned speech to the bench in which he claimed that in the last thirteen years he had not known "one moment of liberty". Indeed this was his third life sentence having originally been sentenced at Hereford Assizes in 1825 for stealing in a dwelling house, he had received his second conviction at Sydney in 1842 for being illegally at large with fire-arms, and had arrived at Port Arthur later that year. He told the court that a previous attempt to abscond from that establishment had earned him a one-hundred stroke punishment: "I was flogged until I was dead, I may say, to the world. When I came to my recollection I found myself smothered in my own gore." He begged the court not to pass another sentence of transportation, exclaiming "death is preferable .. (and) that he would sooner die than go back". He expanded his statement claiming that "The Superintendent at Port Arthur has not the feelings of a man" and he listed a catalogue of abuses of convict rights. The judge refused to let the prisoner continue his statement and Green was removed from the dock shouting as he left "Why he's as great a rogue as I am".<sup>3</sup>

As with other forms of violent convict protest, escape into bushranging would appear to fit into an established pattern. There is evidence that many bushrangers attempted to address their grievances through traditional channels, resorting to fire arms only after other, more conventional methods of protest, had failed to alleviate localised abuses. Thus, John Plumb, whose case was cited above, first took his complaint to a magistrate, as did William Stewart, who accused his master's son of ill-treating him and the breakout from Deloraine Probation station in 1845 occurred only after a gang strike had failed to reinstate the station ration to its official level. The colonial press

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<sup>1</sup> Dyarmott had absconded from Westbury Probation Station. John Dyarmott per *North Britton*, No.8954, *Cornwall Chronicle*, 24 October 1844.

<sup>2</sup> John Higgins per *Daphne*, (NSW) and *Admiral Cockburn*, (VDL) No.141, *Hobart Town Gazette*, 3 February 1821.

<sup>3</sup> William Green per *Sestrosis* (N.S.W.) and *Marion Watson* (V.D.L.) No.1757, A.O.T., Con.35/1 and *True Colonist* 15 and 22 March 1844. Green was transported for life and sent to Norfolk Island.

provided prominent coverage of accusations of harsh treatment wherever they were perceived to have fuelled the rate of bushranging. Concerned that the actions of a few misguided private employers and public officials jeopardised the property and safety of the many, newspapers aired the reported grievances of bushrangers and called for official investigations of the charges the latter levelled at the system.<sup>1</sup> Thus, although the price was high, bushranging did serve to focus public attention on convicts' struggles for real or perceived rights, struggles which were usually conducted behind closed doors. In this manner bushranging served a function similar to that of prison riot, forcing convict pleas for better conditions into the public domain.

Bushranging in fact, became an important indicator of the limits of paternalism. As Nichol has demonstrated, convict managers preferred the use of ideology as opposed to the exercise of naked power.<sup>2</sup> Indeed, it was in the interests of maintaining production that power was devolved to many convicts and conflicts of interest were resolved through mediation rather than the use of repression. This bargaining process was conducted within a hierarchy centred on the workplace and the convict system as a whole was a sum of many hierarchies. The function of the latter was to impose stability on a system which stripped of its ideology was potentially explosive. However, when convict demands could not be met, or placated, convict managers fell back on the hegemony of the law and the use of state force. The crucial point is that this decision to dust off the tools of repression lay with convict managers. From the Governor to the station superintendent who wished to conceal his actions from his superiors, it was management actions which delineated the limits of paternalism. When hierarchies ceased to work, convicts and managers regrouped along class lines. Across the workshop floor, in the shearing shed and the road station muster square the exploited and the exploiters faced each other in uneasy opposition. Bushranging was a product of this tension and to map the distribution of bushranging outbreaks is to map the weak points within the overall apparatus of convict management.

Thus, it is not surprising that while some bushrangers made the decision to bolt from their place of work individually, only subsequently linking up with other armed absconders, this pattern was on the whole atypical. Indeed, the distribution of bushranging recruitment indicates that those who absconded from labour gangs and penal stations were more likely to do so in company than the minority who left from assignment. Sometimes groups of absconders were fairly large, twenty-one from

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<sup>1</sup> See for example *Launceston Advertiser*, 14 September 1829.

<sup>2</sup> W.Nichol, 'Ideology and the Convict System in New South Wales, 1788-1820', *Historical Studies*, Vol.22, No.86 (1986) p.16.

Deloraine Probation Station in 1845 and fourteen from Macquarie Harbour in 1824. Escapes from penal settlement were almost always attempted in company and often required a considerable degree of forward planning. Although official records are imprecise, there is some evidence that plots were commonly hatched amongst teams of workers, particularly penal settlement boat crews. This would account at least in part for the high degree of social cohesion displayed by bushranging gangs, reproducing something akin to the work hierarchy of skilled production and transport units. For example, in at least two instances bushranging gangs composed largely of seamen were led by men who had formerly been employed as government coxswains.<sup>1</sup>

It would also account for the variance in the occupational distribution of "simple" absconders and bushrangers. As discussed in Chapter Four, the incidence of absconding displayed a similar pattern to that of escape into bushranging, accounting for a higher proportion of offences in those sectors of the economy characterised by the use of negative, as opposed to positive, incentives. However, while the bushrangers possessed an occupational distribution remarkably similar to that displayed by the convict population as a whole, those who had made previous attempts to abscond were disproportionately drawn from the ranks of the lower skilled. The divergence appears to reflect the greater degree of sophistication which characterised bushranging outbreaks. Whereas the typical absconder was a gang labourer acting alone and in desperation and usually quickly apprehended, bushranging had its roots in failed attempts by groups of workers to address what were perceived as unusual and gross abuses of their rights. Gang composition tended to reflect the origins of individual outbreaks, composed in some cases of predominantly unskilled workers and in others of those with transport, agricultural and construction skills.

To summarize, any assessment of convict reactions to the removal of property rights in their labour power must take account the conditions under which that exploitation was implemented. As we have already seen, in the convict system these might range from the wide degree of freedom, cash perks and other indulgences "bestowed" on a liveried footman, to the leg irons, basic ration and tight control of a punishment gang. While convicts at both extremes of the system were conscious of their status as unfree workers, the work environment of assigned artisans and other skilled men and women

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<sup>1</sup> The two individuals concerned were Hector MacDonald, who operated in the vicinity of Port Dalrymple in 1820, recorded in an earlier return as the coxswain of a government lugger and Thomas Walker, who escaped with six others from Port Arthur in 1839, who was coxswain of the commandant's launch. Hector MacDonald, per *Lady Castlereagh*, No.61, A.O.T., Con.31 and H.R.A., III, 3, p.78 and Thomas Walker, per *Medina*, No.652., I.Brand, *Escape From Port Arthur*, (Jason Publications, West Moonah, Tasmania, 1978) pp.15-16.



encouraged the belief that a ticket of leave was always just round the corner. For convicts labouring in punishment gangs the possibility of an officially bestowed freedom was years removed for all but those who were near the completion of their full sentence. As in other unfree labour systems, it comes as no surprise, therefore, that outright opposition to management strategies was voiced more frequently by those workers subjected to a higher measure of workplace coercion. To put the issue simply, the further the carrot of freedom was removed and the more the stick of coercion was applied the greater the probability that convicts either individually or collectively, would cease to chase the carrot and attempt instead to break the stick.

Just as the incidence of rebellion in the sugar colonies of the Caribbean has been linked to the Hobbesian working conditions experienced by cane holing and cutting gangs, thus it was predictable that penal stations, road and ironed parties and colonial lock-ups would provide the starting point for most bushranging breakouts.<sup>1</sup> Slaves like convicts understood the mechanics of gang labour. Wherever the managers of the unfree place the emphasis on negative incentives the possibility of gaining that ultimate reward, manumission, recedes. It should thus come as no surprise that the introduction of the probation system in 1839 was accompanied by a marked increase in the incidence of bushranging. Probation extended the use of gang labour, reducing the "traditional" rate of incentive payments and subjected a far greater proportion of the convict workforce to coercive management techniques than had hitherto been the case. Yet, all this demonstrates is that some systems of work organisation were fragile compared to others. It is evident that in dealing with labour gangs and their associated skilled teams, managers had little room to manoeuvre. In short, they were more likely to reject workforce demands because of the manner in which the convict system was structured. Class issues were always close to the surface in this environment and any local grievance was likely to bring conflict to the fore.<sup>2</sup> Yet, while this accounted for the violence of some explosions of unrest, it also served to limit the impact of convict outbreaks to specific work locations and more usually to limited groups of workers within those environments.

While this outline should serve as a general model we need to add two further factors to the equation. It will be remembered from Chapter Two that upon transportation the

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<sup>1</sup> M.Craton, 'Hobbesian or Panglossian? The Two Extremes of Slave Conditions in the British Caribbean, 1783-1834', *William and Mary Quarterly*, 3rd ser., Vol.25 (1978) pp.355-356.

<sup>2</sup> See for a comparable account Craton's discussion of the Hanover Slave Plot of 1776, the origins of which lay in an increased work load combined with a reduction in the ration. Craton, *Testing the Chains*, p.174.

bushrangers to be differed from the established convict profile in two important respects: they were younger and proportionally more had been sentenced to life. To deal with the second of these factors, we should note that one of the functions of a "life" sentence is that the expiry date is always arbitrary: freedom depends entirely on management interpretations of the behaviour of the individual. Thus, for the convict labouring in a punishment gang the chances of converting that life sentence into a ticket of leave, or any other form of partial or absolute liberty, appear to be far removed. The convict is aware that a fact of gang life is that it is easier to attract further colonial offences, yet any remission is dependent on the possession of a good conduct sheet. This applied especially to those who laboured in penal settlements as removal to such a location could only be enacted through the passing of an additional colonial sentence. To this extent, the number of bushrangers who had received a second sentence of seven years or over is significant. Running two sentences concurrently, especially two life sentences, converted the officially endorsed route to freedom into a marathon of epic proportions. Naturally, in these circumstances the temptation to take dangerous short cuts increased.

However, any convict contemplating cutting across country needed to take account of their levels of personal fitness. The pros and cons require balancing in any planned attempt to breakout of servitude and for the aged and lame the risks were simply too great.<sup>1</sup> Age, however, was important in another respect. As indicated in Chapter Four, youthful convicts tended to clock up more offences than their fellow workers of senior years. Clearly, in a labour system characterised by a high turnover of manpower, masters were less likely to invest capital in incentive handouts to convicts who had not completed their occupational training. In short, the demand was for journeymen, rather than apprentices and certainly not for boys. Thus, the initial experiences of younger convicts compared unfavourably with those of elder bonded workers, as the former were handicapped in the competition for those positions which yielded high levels of indulgences and performance bribes. Although over time, their opportunities to ascend the system improved, their introductory years were more likely to be marked by those damaging entries in the "black books" which delayed receipt of a ticket of leave and/or a conditional pardon.

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<sup>1</sup> The average age of the convicts in this sample was just 27 on commencement of their bushranging careers. This was approximately the average age of the convict population as a whole on arrival in Van Diemen's land. L.L.Robson, *The Convict Settlers of Australia*, (Melbourne University Press, Carlton, Victoria, 1976) p.9.

Finally, one last set of factors which appear to have influenced the selection of bushrangers were those personal characteristics of stubbornness and belligerence of which some individuals are uniquely possessed. These are factors which it is impossible to measure, but suffice it to say that despite the risks attached to bushranging several convicts embarked on this course more than once. Amongst the latter were at least two men who twice attempted to take the system on in Van Diemen's Land, Charles Ryder and Edward Griffiths. In the first instance they operated separately, Ryder was apprehended shortly after the death of Hector MacDonald in 1820 and Edward Griffiths in 1821. Both were sentenced to Newcastle penal settlement but were subsequently moved back to Van Diemen's Land on the opening of Macquarie Harbour. It was from the latter that they resurfaced in the 1824 breakout led by the seaman James Crawford.<sup>1</sup> However, the first attempt of most of the multiple bushrangers who appear in this study were made in New South Wales. They include Lawrence Kavanagh and George Jones, the companions of the celebrated Van Diemen's Land bushranger, Martin Cash, and William Westwood, alias "Jacky Jacky" who attracted considerable notoriety for his exploits in the bush south of Sydney.<sup>2</sup> Interestingly, Kavanagh and Westwood, who both survived their second jaunt in Van Diemen's Land, later teamed up on Norfolk Island to lead the attempted 1846 mutiny. A confrontation with authority which was to cut both their lives short.<sup>3</sup> In all, just under five percent of the van Diemen's land bushrangers included in this study were charged with the offence more than once.

Having taken the decision to rebel, the bushrangers sought to replace the official avenue to freedom with a timetable of their own creation. Theoretically three options were open to them. First, they could attempt to extend the revolt adopting the objective of the great Caribbean slave plots in a bid to over-throw the colonial administration and install their own government. There is no evidence that any of the Van Diemen's Land bushrangers ever contemplated such an ambitious itinerary. Nevertheless, the failure of bushranging to translate into a general convict uprising remains an important issue and will be discussed in greater depth below. Secondly, the bushrangers could have attempted to

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<sup>1</sup> Charles Ryder, per *Mariner* (NSW) and *Admiral Cockburn* and *Woodlark* (VDL), Nos. 107, 374 and 298, A.O.T., Con 31 and John or Edward Griffiths, per *Coromandel* (NSW) and *Triton* (VDL), Nos. 174 and 373, A.O.T., Con 31.

<sup>2</sup> George Jones per *Dunvegan Castle*, (NSW) and *Marion Watson*, (VDL), tried Sydney S.C. 14 April 1842, A.O.T., Con.16/1; Lawrence Kavanagh, per *Kangaroo* (NSW) and *Marion Watson* (VDL), No.860, tried Sydney S.C., 12 April 1842 and William Westwood, per *Mangles* (NSW) and *Marion Watson* (VDL), No.3035, Tried Berrima, S.C. 15 April 1841. See also A. Atkinson, *Camden, Farm and Village Life in early New South Wales*, (Oxford University Press, Melbourne, 1988) p.43.

<sup>3</sup> M. Hazzard, *Punishment Short of Death, A History of the Penal Settlement at Norfolk Island*, (Hyland House, Melbourne, 1984) pp.193-212.

emulate the Jamaican maroons and establish their own autonomous settlement within the rugged interior of the Western Tiers. In its formative years an objective somewhat akin to this was probably uppermost in the minds of armed absconders. Michael Howe was said to entertain dreams of establishing a permanent settlement outwith the administration of Hobart and indeed, as late as 1826, Matthew Brady *et al* referred to their mountain farm.<sup>1</sup> A dwelling which was later discovered and found to consist of a slab hut and stock pens secluded in the Tiers and possessed of a commanding view of all approach routes. However, the interior of Van Diemen's Land could neither support nor supply concealment for a significant number of convicts for long. With the continued spread of settlement and with an increasing number of soldiers, constables, colonial volunteers and "black trackers" at the disposal of the administration it was apparent that internal resistance could not hold the tide for ever.<sup>2</sup> For those who contemplated this objective, the ultimate defeat and subjugation of the original Tasmanians in the late 1820s early 1830s offered proof that guerilla resistance was ultimately doomed to failure. The third option was to seek freedom in escape from the colony altogether. It is apparent that this was the aim of most bushrangers. As William Ashton described his situation in his petition for clemency, he had only taken to the bush with the object of obtaining his freedom.<sup>3</sup>

However, as indicated by Table 6.2, very few bushrangers managed to evade the attentions of the colonial authorities. Indeed, the official returns almost certainly overestimate the escape rate, for it was widely held that a high proportion of those bushrangers recorded in the records as "run" or "absconded", had actually perished in the "woods" of Van Diemen's Land. The actual number that made a clean break from the colony was certainly tiny, and even amongst those who attained the relative safety of the Mainland the proportion subsequently arrested and returned appears to have been high. To give two examples, in 1839, the coxswain and seven other members of the Commandant's and No.3 boat crews made a successful escape from Port Arthur by sea.<sup>4</sup> After raiding the south and east coasts of Van Diemen's Land, they navigated their open boat across the Bass Straits to Twofold Bay. Here they had the misfortune to run

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<sup>1</sup> Wells, *Mike Howe*, p.31 and J. Calder, *Brady*, (1873) reprint E. Fitzsymonds, (Sullivan's Cove, Adelaide, 1979) p.110.

<sup>2</sup> "Black trackers" were Aborigines imported from the mainland specifically for the purpose of hunting down bushrangers and Tasmanian Aborigines.

<sup>3</sup> 'The Humble Petition of William Ashton', per *Guildford* (NSW) and *Ruby* (VDL) No.4, A.O.T., C.S.O. 1/294/7154.

<sup>4</sup> The escapees were, Henry Dixon, per *Surrey* 2, No.549; John Thomas, per *Sir Charles Forbes*, No.495; John Jones, per *Asia* 2, No.339; James County, per *Persian*, No.1141; George Moss, per *Argyle*, No.885; Nicholas Lewis, per *Atlas*, No.750; James Wolfe, per *William Miles*, No.842 and Thomas Walker, per *Medina*, No.652.

into the New South Wales revenue cutter *Prince George* and were apprehended and returned to Hobart.<sup>1</sup> The second group would be escapees comprised of Thomas Mason, John Ashley, George Derbridge and William Rowe, known as the "George Town Gang".<sup>2</sup> After operating for some weeks in North-Eastern Van Diemen's Land, the latter seized a boat and pressed a party of sealers to convey them across the Straits. Rowe, Mason and Ashley were promptly arrested and transferred back to Hobart. Derbridge, however, was never located and was assumed to have made good his escape.<sup>3</sup> Yet, all in all, there were few George Derbridge's and the ultimate success rate of bushranging can hardly be termed an encouraging advertisement for those considering emulating the careers of Howe and Brady *et al.*

While the lack of ultimate success is an important component of the bushranging story, it would be wrong to imply that the phenomenon did not affect the running of the convict system. While escape may have been uppermost in the minds of the bushrangers the method they chose to achieve that objective was anything but low profile. As we saw in the previous chapter, from 1814 onwards attacks on settlers' property became common place. The increasing levels of violence also included a growing number of attacks on the properties of former master's. This tendency was also a feature of similar movements in other unfree societies, for, as the Governor-General of Angola remarked in 1878, it was noticeable that the raids of former slaves were not conducted against those plantations within easy reach, but against proprietors with whom the runaways had old scores to settle.<sup>4</sup> In Van Diemen's Land such attacks rarely resorted to actual bodily violence, nevertheless, as the raid on the McLeod property at *Claggan* demonstrates, the experience could be extremely unpleasant for the occupants of the target property.<sup>5</sup> Donald McLeod's son, Magnus, reported, that the bushrangers commenced their attack at one in the morning, the household being awoken by "the report of a gun, and a rattling against the shingles, as if occasioned by shot". Donald, Magnus and Alexander, another son, immediately got up and armed themselves. They then heard Thomas Lawton shout from the back of the house "open the door or we will slaughter you all". The threat was shortly followed by John Morton from a different quarter, "come out you old scoundrel and have fair play" and by

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<sup>1</sup> Brand, *Escape From Port Arthur*, *passim*.

<sup>2</sup> George Derbridge, per *Layton* (2) No.1064; John Ashley, per *Andromeda* No.244; William Rowe, per *Gilmore* No.790 and Thomas Mason, per *Circassian* No.1042.

<sup>3</sup> *Launceston Examiner*, 4 January 1845.

<sup>4</sup> Clarence-Smith, 'Runaway Slaves and Social Bandits in Southern Angola, 1875-1913', p.29.

<sup>5</sup> In common with other forms of protest, the object of the bushrangers appears to have been to intimidate rather than destroy those they held responsible for their condition. Where executions were carried out they were usually reserved for informers. See the case of Thomas Kenton, *Colonial Times*, 10 March 1826.

William Sainter from the front of the house "we want some supper, we want Tucker". When none of the McLeods responded, Samuel Cowden, also at the front of the house shouted; "here is little pincher, he will pinch some of you tonight; he is called by the rich name of little pincher". Between thirty and forty shot were then directed at the house, five musket balls passing clean through the double weather boarding. Before departing, the bushrangers told Ruth Price, an assigned domestic servant, that they would next go to the McLeod's other property, Tailisker. They claimed that they intended to fire the house and shoot the tenants, George and John Stewart, as they attempted to quit the burning building.<sup>1</sup>

Beyond personal satisfaction these retaliatory raids achieved another purpose which should not be underestimated. For the McLeod family, who were discovered cowering on the floor by their domestic servants, the experience was intensely humiliating. The authority of the master or mistress over their "loyal" servants could suffer irreparable damage, this was particularly the case where masters were ordered to strip in front of their stationhands. On other occasions, the assailants questioned assigned servants as to the character of their masters and or overseers. William Faber, an emancipist herdsman, reported that when Dry's house at Quamby's Brook was attacked, the bushrangers seized Dry's nephew. In a complete reversal of dominant power relations, the bushrangers enquired of the assembled assigned servants as to their captive's character. Thus, for a brief moment, the unfortunate nephew's fate hung in the hands of the estate's unfree workers. The latter pronounced him a "good man" and he was released, the convicts having exercised a paternalist pejorative which was usually the preserve of the master class.<sup>2</sup> This interesting variant of the kangaroo court not only cut deep into the ruling ideology but left the assigned convicts free from the conventional source of master retaliation, the magistrates bench.

Bushrangers also carried out retributive attacks on other officials. Of the raid by Matthew Brady and ten others on W.E.Lawrence's property at the Lake River in February 1826, Mr Robert William Lawrence reported:

I heard two shots fired while I was in the Kitchen, they told me that Bramsgrove (the overseer) had been wounded by Brady - but that if that did not kill him he should not live six months, as his Character was so bad all over the Country for ill-treating the Men.<sup>3</sup>

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<sup>1</sup> Information on oath of Mr Magnus McLeod, A.O.T. , C.S.O. 1/411/9270.

<sup>2</sup> Calder, *Brady*, p.57.

<sup>3</sup> Calder, *Brady*, p.109.

As Fitzsymonds has demonstrated there appear to have been grounds for the bushrangers charge. Thomas Bramsgrove, who survived the attack had already been cautioned for a "violent assault" on an assigned servant and was later dismissed from Lawrence's service for a similar offence.<sup>1</sup> Before departing, the bushrangers exacted a heavy toll on Lawrence, setting fire to and completely destroying his wheat fields, house and outbuildings. Bramsgrove was not the only overseer to suffer at the hands of the bushrangers. Edward Williams who worked for G.F.Read was beaten up "in a most inhuman manner, so as to leave him for dead" by the bushrangers William Oldrey and William Taylor.<sup>2</sup> Finally, in a case which has distinct parallels with the attack on Dry's property at Quamby Brook, Mr Shackles the overseer at Swamp Farm received a shock when he addressed three strangers. His enquiries were met with an order to dismount. He indignantly refused and was told "Come on humbug; we are bushrangers, and have walked sixty miles to come here to blow your brains out." As Shackles was bound he pleaded for his life but the bushrangers were not impressed: "They had heard Mr. Shackles, they said, represented as an unkind master to prisoner servants, and they would murder him and any others they knew of, who treated their servants unkindly." However, after discussion with the estate's twenty-six assigned servants, the bushranger George Jones told Shackles that "in consequence of the good character the men had given him" his life would be spared. He added, "that if he ever heard of any harsh treatment of Mr Shackles to prisoner servants, he would return with his gang and murder him."<sup>3</sup>

While the bushrangers were clearly intent on playing games with the ideology of the convict managers their actions were not always overtly threatening. A curious feature of the bushrangers' conduct, which has long excited the imagination of commentators, was their civility. It was quite common for items which held a sentimental value to be returned to their owners on demand and their conduct towards women and children was often characterized by the greatest decorum. Indeed, the gentlemanly airs of Matthew Brady became a yardstick which all attempted to emulate.<sup>4</sup> Even the colonial press joined in the game, chastising those whose conduct did not match the high standards set by past bushranging celebrities.<sup>5</sup> However, while attempts have been made to compare

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<sup>1</sup> Calder, *Brady*, p.107, note 5.

<sup>2</sup> Richard Oldrey per *Dromedary* No.19 and William Taylor per *Morley* No.230 *Hobart Town Gazette*, 27 April 1822.

<sup>3</sup> George Jones per *Dunvegan Castle* (N.S.W.) and *Marion Watson* (V.D.L.) *Cornwall Chronicle*, 3 June 1844.

<sup>4</sup> M.Korbell, 'Bushranging in Van Diemen's Land, 1824-1834', B.A. Hons. Thesis, University of Tasmania, (1973) pp.5,22 and 63 and Calder, *Brady*, p.8.

<sup>5</sup> *Colonial Times*, 30 December 1825; *Hobart Town Gazette*, 24 September 1825 and *Independent*, May 10 1834.

such behaviour with those attributes Hobsbawm assigned to the "noble robber", it is apparent that such displays of civility had a far more poignant purpose.<sup>1</sup> As we have already seen, the convict managers were quick to resort to slurs of criminality whenever they felt that the actions of convicts eroded or in anyway threatened the hierarchical distribution of power relationships.<sup>2</sup> As in Van Diemen's Land bushranging posed the greatest historical threat to those relationships, the bushrangers were an obvious propaganda target. Alive to the ideological implications of subjection and reacting to the early attacks launched by the administration and the island's landed élite, the bushrangers launched their own highly successful counter-attack. They attempted to drown out the official chorus which proclaimed them as "scabs of humanity"<sup>3</sup> with displays of civility which mirrored the social mores of those whose position they most threatened. Thus, the conflict which the bushrangers engaged in was far more than a physical struggle. For the ruling élite, to be attacked by thugs was simply frightening, however, to be robbed by convicts dressed in frock coats, sporting top hats and mimicking the manners of the "big house", was ideologically devastating.<sup>4</sup>

Such events were dramatic, yet their impact was far wider than might be suggested by the limited number of player involved, for attacks on any official connected with the convict system had repercussions for the whole of that system. In the past there has been a tendency to view bushranging as a colourful side-show, removed from those important, but often mundane issues which more properly belong on centre-stage. Thus, the bushrangers have been marginalised by the mainstream histories as they have attempted to grapple the weighty political, social, economic and cultural aspects of the history of early colonial Australia. These are areas of inquiry which for the most part hinge upon the various interpretations of the manner in which the convict system operated. Yet, when the management of convict labour is placed on-stage, the bushrangers are amongst the most important of the uninvited actors who intrude from the wings. It is here that the historical importance of bushranging lies. For, their

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<sup>1</sup> E.J.Hobsbawm, *Bandits*, (Penguin Books, Harmondsworth, Middlesex, 1972) pp.41-56 and Korbell, 'Bushranging in Van Diemen's Land, 1824-1834', pp.4-6.

<sup>2</sup> For a similar discussion in relation to slavery, see Craton, *Testing the Chains*, p.251.

<sup>3</sup> *Hobart Town Gazette*, 14 October 1826.

<sup>4</sup> The most spectacular example of a bushranger displaying a "strong inclination to assume the *habits* of a gentleman.." was affected by George Clay (per *Sir Godfrey Webster*, No.584). When apprehended on the bridge at Ross, Clay was wearing officer's regimentals, a sword, duelling pistols, and somewhat overdoing it, three silk handkerchiefs around his neck. *Hobart Town Gazette*, 17 September 1825. This is remarkably similar to Paul Roberts description of Caravat tactics in early nineteenth century Southern Tipperary. Personification of the target groups' mores and cultural attributes was clearly a most powerful and effective weapon. P.Roberts, 'Caravats and Shanavests: Whiteboyism and Faction Fighting in East Munster, 1802-11', in S.Clark and J.Donnerly (eds.) *Irish Peasants, Violence and Political Unrest 1780-1914*, (Gill and Macmillan, Dublin, 1983) pp.66-73.



presence forced or encouraged convicts, masters and officials to act in ways which in normal circumstance they attempted to conceal or would have chosen to avoid altogether. The remaining part of this chapter seeks to explain and account for the movements of the main groups of participants in this drama.

## II

"I'll give the law a little shock, remember what I say,  
They'll yet regret they sent Jim Jones in chains to Botany Bay."

### **Bushranging and the convict managers.**

During the convict era the maintenance of the principal means of production rested on the ability of an owning class to extract labour from property rights held in the labour power of others. As in other unfree societies, any attempt made by the subjected to question that ability produced waves of anxiety which surged through the ranks of the dominant class.<sup>1</sup> Bushranging was no exception and the reaction of the state and the employers of convict labour to periodic "little shock(s)" must be viewed in this context.

Throughout the period under investigation a conviction for illegally at large under fire arms carried the death sentence. However, while in total thirty-nine percent of bushrangers ended their career on the scaffold, the degree of severity with which the offence was dealt with depended largely upon the decade in which the bushranger was tried in. By mapping these changing responses to bushranging it is possible to determine much about the nature and extent of the threat which the actions of the bushrangers were perceived to pose by the colonial administration.

In the early years of settlement the means did not exist to maintain authority over the convicted by negative control alone. Few troops were stationed in Van Diemen's Land and the combined emancipist and convict population far outnumbered those colonists who had arrived free and were classed as "respectable". Instead, the distinction between the free and the unfree was preserved through the paternalist administration of the early governors. Like plantation owners, they were able to single out offenders for draconian punishments and yet extend clemency to others. As Nichol says, because this exercise of power "offered a glimmering possibility of clemency *and* a hideous array of punishments, it naturally aroused a constant stream of pleas for forgiveness..."<sup>2</sup> Lieutenant Governor Collins of Van Diemen's Land, appears to have been an

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<sup>1</sup> D.B.Gaspar, *Bondmen and Rebels: A study of Master-Slave Relations in Antigua*, (Johns Hopkins University Press, Baltimore, Maryland, 1985) p.93.

<sup>2</sup> Nichol, 'Ideology and the Convict System', p.16.

exceptionally expert exponent of the art of paternal management. Returned bushrangers would fall on their knees before him and beg forgiveness. In front of the assembled convicts, he would extend the hand of benevolence and give the offender *his* pardon.<sup>1</sup> The point being of course, that begging for a reprieve is to except the legitimacy of authority.<sup>2</sup> By demonstrating their capacity to look kindly on the mistakes of those entrusted into their care the colonial authorities attempted to buttress the few genuine measures of coercion at their disposal. Thus, through the operation of the law they attempted to create a "mental structure of paternalism" within which to anchor a grateful and deferent convict and emancipist mass.<sup>3</sup>

The post-1813 escalation of bushranging in Van Diemen's Land sorely tested this apparatus of power and amnesties, particularly that granted by Governor Macquarie in 1814, were increasingly criticised as ineffectual.<sup>4</sup> The initial response of the administration was to turn the full weight of the law on individual miscreants in "naked and savage" public displays of power.<sup>5</sup> For example, in June 1815, Hugh Burne and Richard McGwyre, "dreadful" bushrangers, were executed and their remains hung in chains on Hunter's Island, Hobart.<sup>6</sup> While bushrangers continued to receive pardons an increasing number of those who escaped the gallows were sentenced to public whippings, sometimes numbering over 200 strokes.<sup>7</sup> Although only small numbers of convicts were involved, the continued failure to exert complete control over the island exposed the limitations of the selective use of punishment. Further, the support which the bushrangers continued to receive from other elements of the population undermined the whole principle of reinforcing authority through the exercise of clemency. Where the early lieutenant governors might have expected to cultivate "gratifying deference" within the ranks of the bonded they were met instead with a most ungratifying degree of hostility. As the bushrangers continued to receive support from both convicts and

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<sup>1</sup> M.Tipping, *Convicts Unbound: The Story of the 'Calcutta' Convicts and their Settlement in Australia*, (Viking O'Neil, Ringwood, Victoria, 1988) p.129.

<sup>2</sup> Nichol, 'Ideology and the Convict System', p.16.

<sup>3</sup> D.Hay, 'Property Authority and the Criminal Law', in M Fitzgerald et al (eds.) *Crime and Society*, (Routledge and Keegan Paul, London, 1981) p.9.

<sup>4</sup> Macquarie offered to pardon all bushrangers who surrendered in a given time period (with the exception of those facing murder charges). The measure was criticised since it was felt that it provided the outlaws with a free reign to commit mayhem as long as they surrendered before the expiration of the deadline. Proclamation, 14 May 1814, G.C.Ingleton, *True Patriots All, or News from Early Australia, as Told in a Collection of Broad-sides*, (Angus and Robertson, Sydney, 1952) pp.68-69.

<sup>5</sup> H.Newby, 'The Deferential Dialectic', *Comparative Studies in Society and History*, Vol.17, (1975) p.163.

<sup>6</sup> Richard McGwyre and Hugh Burns both per *Guildford* (1), *La Trobe Library*, Melbourne, 'Tasmanian Death Register', LTgm.5 148, No.183.

<sup>7</sup> M.Nicholls, (ed.) *The Diary of the Reverend Robert Knopwood 1803-1838*, (Blubber Head Press, Hobart, 1977) *Passim* and Tipping, *Convicts Unbound*, p.129.

elements of the free population it was apparent that popular consent for the operation of the law fell far short of the levels required to guarantee the stability of the regime.

Early Australia was not a gaol and thus, stability could not be achieved by interposing a prison wall between the ungovernable and the rest of colonial society. Penal settlements did exist, but they were small and offered no shelter for a regime which was increasingly concerned with the possibility of facing a concerted revolt.<sup>1</sup> In fact, the legal apparatus at the disposal of the colonial regime was extremely limited. As in early modern England, prior to 1804 no sentencing option was available to courts between the extremes of execution and beatings.<sup>2</sup> In Van Diemen's Land the exercise of local power was further restricted by the absence of a higher court, thus until 1821, the decision to convict a capital offender rested not with the administration in Hobart but that in Sydney.<sup>3</sup> As late as 1824, Lieutenant Governor Sorell confided to his replacement, Arthur, that he was in reality "destitute of all efficient means of restraint and coercion."<sup>4</sup> The opening of Port Macquarie in New South Wales and Macquarie Harbour in Van Diemen's Land broadened the punishment options, but did not totally allay the fears of the administration. Both institutions had a limited capacity, indeed the prison population at Macquarie Harbour never exceeded 360. All of these insecurities are reflected in the appalling rate of judicial carnage which persisted throughout Arthur's term of office, (1824-1835).

After 1815 the use of the full pardon for convicted bushrangers was reserved only for those cases who turned king's evidence. Between 1816 and 1823 increasing use was made of the scaffold, although those offender who were deemed to be less dangerous were reprieved on condition of re-transportation, in the first place to Newcastle and then later to Port Macquarie and Macquarie Harbour. However, after 1824 reprieves, in any form, became increasingly uncommon. These were the years of rising convict numbers, and although the ratio of free to unfree subsided after 1821, convicts still

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<sup>1</sup> For example, on 30 August 1814 a bench of magistrates reported to Lieutenant Governor Davey that: "unless a Speedy Stop is put to the System of Bushranging, on the approach of Summer the greater part of the prisoners of both the Settlements on this Island will join the Lawless Band now in the Woods, and many valuable Lives will be Lost 'Ere they are Subdued." *H.R.A.*, III, 3, p.79.

<sup>2</sup> A.Melbourne, *Early Constitutional Development in Australia*, (University of Queensland Press, St Lucia, 1963) pp.11 and 37; Newcastle Penal settlement was open in 1804 providing New South Wales and Van Diemen's Land with the further option of transportation.

<sup>3</sup> The high numbers of bushrangers who were shot and killed during this period deserves further comment. Although difficult to establish, it is possible that a "shoot to kill" policy operated in the years 1816 to 1820 as the local administration grappled with the problems of removing captives for trial in Sydney.

<sup>4</sup> As quoted in A.G.L.Shaw, *Sir George Arthur, Bart. 1784-1854*, (Melbourne University Press, Carlton, Victoria, 1980) p.65.

accounted for approximately 50 percent of the island's population (see Appendix 1). The parity in numbers between bond and free served to heighten the concerns of the administration and the latter turned to the scaffold in an attempt to underscore its authority. Of the 50 bushrangers located by this study who operated between 1827 and 1836, 68 percent were either executed or shot in action, (see Table 6.2).

As with the operation of the English criminal law, however, it would be wrong to give the impression that conviction and execution was a formality.<sup>1</sup> Nevertheless, to some extent the state was able to maintain its tough stance because the operation of the colonial judicial system was less complicated than its British counter-parts. In the first place all convict bushrangers were automatically charged. As property rights over prisoners rested with the colonial authorities, the very act of absconding guaranteed that all who were apprehended could be convicted for the serious, although non-capital, offence of being illegally at large before the expiration of their sentence. Thus, the first appointment for the apprehended bushranger was with the magistrate and it was the latter who weighed the options and decided how best to proceed. While a bench consisting of three J.P.s could sentence a prisoner to a period of up to three years in a penal station, the lower courts were not empowered to try capital cases. Thus any absconder apprehended illegally at large with fire-arms was automatically forwarded to a higher court.<sup>2</sup> However, charges of breaking and entering and/or putting in fear encompassed further complications, a successful prosecution requiring a private prosecutor and at least one reliable witness. In marked distinction to the magistrates bench, the higher courts required the services of a jury.<sup>3</sup> Thus, a conviction could be the product of the collective decisions of a whole range of "decision makers"; magistrates, prosecutor, witness and jurors. Nevertheless, acquittals appear to have been rare, although submissions for clemency were not uncommonly entered by either the jury or the bench. By entering a plea for leniency the jury and/or judge hoped to influence the Executive Council with whom the ultimate decision to pursue a capital conviction rested.

For example, the five bushrangers who attacked the house of Donald McLeod, (John Morton, William Sainter, William Stewart, Thomas Lawton and Samuel Cowden), acquired a measure of short-lived notoriety. Donald McLeod's management technique

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<sup>1</sup> See P.King, 'Decision-Makers and Decision -Making in the English Criminal Law', *Historical Journal*, Vol.27, (1984) pp.25-58 and J.Langbein, 'Albion's Fatal Flaws', *Past and Present*, Vol.98, (1986) pp.96-120.

<sup>2</sup> *True Colonist*, 22 March 1844.

<sup>3</sup> Melbourne, *Early Constitutional Development*, pp.192-194.

was largely held to be the direct cause of this particular outbreak and at least one paper demanded an inquiry. While the measure of violence they had offered was weighed against them, the five bushrangers were generally perceived to be victims of circumstance rather than dangerous secondary offenders, and were described as "poor misguided men". In this case the jury did indeed submit a plea for leniency, but this does not appear to have been followed up by a more powerful recommendation from the judge. Nevertheless, when the Executive Council met to consider whether to proceed with a capital conviction against all five it gave careful consideration to the case, only reaching a final decision after three meetings. This delay should not be interpreted as a sign that the Executive Council was unduly influenced by the petitions and pleas of others. In reality it was the Governor who dominated the council and his verdict was final.<sup>1</sup> In the McLeod case there was never any doubt that at least three of the five bushrangers would hang and the council made it clear that it did not particularly matter which three were selected. Rather than fixing an appropriate punishment the aim was to make a suitable example, yet Governor Arthur was conscious that the decision to execute all five would prove unpopular. In a move which displayed an acute grasp of the situation, he asked Major McLeod to single out either one or two for reprieve. McLeod, who was somewhat embittered by the allegations raised in certain quarters of the press, recommended that William Stewart should be pardoned. The irony of course being that it was Stewart's accusation of ill-treatment which had sparked off the outbreak. Thus, while the other four were executed, Stewart was transported for life and sent to Macquarie Harbour. This appears to have been a common tactic, it had the advantage of heading off public discontent and at the same time of shoring up the shaken estate owners exercise of power.<sup>2</sup>

As Douglas Hay has observed for eighteenth century English society "the discretion embodied in the law allowed the authorities to use terror with greater flexibility."<sup>3</sup> Yet, where the authority of the law was openly challenged much greater use was made of the gallows. As in the slave colonies of the Caribbean, in Van Diemen's Land paternalist stances were dropped at the first hint of any direct challenge to the *status quo*.<sup>4</sup> During the period of Governor Arthur's term of office, pardons were only granted where it was apparent that an execution would be widely condemned as an unjust abuse of

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<sup>1</sup> Melbourne, *Early Constitutional Development*, pp.6-13.

<sup>2</sup> Executive Council Minutes, 24 and 26 June and 2 July 1830. See also case of Robert McLeod, a bushranger who escaped from a chain gang but received a pardon on condition of transportation for life after Arthur had consulted his former master, Mr Jellicoe. McLeod's four surviving comrades were all executed. Executive Council Minutes, 6 May 1830. A.O.T., E.C.4.

<sup>3</sup> Hay, 'Property Authority and the Criminal Law', p.14.

<sup>4</sup> Craton, *Testing the Chains*, pp.3 and 53 and Connell and Irving, *Class Structure and Australian History*, p.45.

authority. In such cases Arthur did not openly pander to public opinion but stage-managed the operation of the law, appearing to listen more to the "kindly" recommendations of masters than the pleas of jurors and the complaints of the colonial press.

After 1836, the rate of judicial carnage subsided. Port Arthur and Norfolk Island greatly increased the capacity of the bottom tier of punishment, thus easing the pressure off the gallows. While the death penalty was still awarded for all cases where possession of fire arms was established, in an increasing number of cases judges indicated that leniency should be shown. The Executive Council responded and between 1837-46, only 12 percent of bushrangers were executed compared to 62 percent in the previous decade. The restricted use of terror was a direct reflection of the evolution of the convict system.

When historians have discussed the early years of convict settlement in Australia they have displayed a tendency to judge the venture in the light of the subsequent development of the convict system. Thus, according to Hainsworth and Hirst, New South Wales started its life as a colonial gaol.<sup>1</sup> This is a misnomer, punishment only became institutionalized by degrees. Hirst is closer to the truth when he claims that the lash had to perform the function of prison walls.<sup>2</sup> In slave and early modern societies punishment by mutilation and display was common place. The rationale behind a gaol is that it facilitates the distribution of punishment. Gaols enable many offenders to be punished and hence negate the need to make a particular example of the individual.<sup>3</sup> Examples of excessive selectively applied public punishments can be found in early Australian colonial records precisely because it was not a gaol but a small, state-run, unfree labour system.<sup>4</sup> As the colonial authorities in Van Diemen's Land reacted to the

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<sup>1</sup> D.R.Hainsworth, *The Sydney Traders: Simeon Lord and his Contemporaries 1788-1821*, (Melbourne University Press, Carlton, Victoria, 1981) pp.219-220 and Hirst, *Convict Society and its Enemies*, p.78.

<sup>2</sup> Hirst, *Convict Society and its Enemies*, pp.68-69.

<sup>3</sup> Gaspar, *Bondmen and Rebels*, pp.12, 22-26; M.Foucault, "Discipline and Punish": *The Birth of the Prison*, (Penguin Books, Harmondsworth, Middlesex, 1982) p.80 and D.Philips "'A New Engine of Power and Authority": The Institutionalization of Law-Enforcement in England 1780-1830', in V.A.C. Gatrell et al (eds.) *Crime and The Law: The Social History of Crime in Western Europe since 1500*, (Europa Publications, London, 1980) pp.156-157.

<sup>4</sup> I take it that those authors who describe early Australia as a gaol do not have the eighteenth century notion of this institution in mind. Prior to 1770 places of confinement were used primarily for the imprisonment of debtors, 60 percent of inmates. The rest of the institutional population was largely transient, that is, prisoners awaiting trial or the convicted awaiting the infliction of punishment, usually transportation or death. They were not used as places of punishment *per se* and certainly not on the scale of "Botany Bay": the convict population on the first fleet numbered about 750. M.Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850*, (Macmillan, London, 1978) p.28.

bushranging threat, they adapted the convict system creating, by the mid-1830s, an annexe at Port Arthur which was akin to a gaol. With the capacity to accept many re-transportees the expanded penal settlements gave the administration the option of returning to the flexible use of terror. The crucial point being that flexibility allowed the state the room to exercise its paternalist pejorative, creating at least the illusion of normality and stability.<sup>1</sup>

Table 6.2                      **Fate of Van Diemen's Land Bushrangers 1807-1846.**

	1	2	3	4	5	6	Total
<b>1807-27</b> (No.)	80	14	37	6	23	1	161
(%)	50.0	8.7	23.0	3.7	14.0	0.6	100
<b>1827-36</b> (No.)	31	3	10	0	4	2	50
(%)	62.0	6.0	20.0	0.0	8.0	4.0	100
<b>1837-46</b> (No.)	12	5	75	2	0	7	101
(%)	12.0	5.0	74.0	2.0	0.0	7.0	100
<b>Total</b> (No.)	123	22	122	8	27	10	312
(%)	39.0	7.1	39.0	2.6	8.7	3.2	99.6

1 = Executed.

2 = Shot and killed while at large.

3 = Re-transported to a penal settlement.

4 = Lesser punishment, (flogging confinement etc.)

5 = Pardoned or surrendered under amnesty.

6 = Never caught; recorded in the convict registers as "run" or "absconded".

Sources: *A.O.T.*, Con.23, 31, 32, 33, 35, and 37; *P.R.O.*, H.O. 10/43 and *La Trobe Library*, LTgm.5 148. *Tasmanian Death Registers*.

As has been argued elsewhere in this thesis, the ideology of the convict system was buttressed by the paternalist management of the Midlands and East Coast gentry. This is not to say that the owners of the 150 or so estates of over 1000 acres were merely extensions of official power, indeed, the operation of the assignment regulations ensured that there was continual conflict between public and private landed interest. Yet, while private individuals would squabble with the administration over the quantity and quality of convicts supplied and the allocation of land and state sinecures, they were held to play a crucial role in anchoring the management objectives of the Convict Department within the operation of assignment. While it would appear that past

<sup>1</sup> While this allowed the administration to adopt an air of complacency, in reality fears of insurrection never subsided. Even in the early 1850s when transportation to the island was being wound up, Governor Denison fought to retain a substantial military garrison as a bulwark against an open convict revolt. M.Roe, *Quest for Authority in Eastern Australia, 1835-1851*, (Melbourne University Press, Carlton, Victoria, 1965) p.53.

histories may have exaggerated the prevalence of assignment to large scale pastoral properties, there can be little doubt that the social ordering embodied in the estate environment was an important element of the convict system. Much stress was laid on the need for "proper" master servant relations as typified by the management of the gentlemen's house, fields and stock runs. The latter were perceived to provide the convict system with stability as the gentlemen insisted that his servants were obedient and deferent. Yet this relationship was also thought to foster moral reformation through the gifting of largesse and the fatherly hand of guidance. Above all, the concepts of deference and paternalism are important to the exploiters of the unfree, as ruling élites place much store in the belief that "Sambo" can pose no threat.<sup>1</sup> The convict who kept "a still tongue" in his head, did his master's duty and identified his continued well-being and eventual deliverance from bondage with his employers interest, was held to be safe. To quote Newby: "Stability is...the keynote of deference, for only deference ensures the long-term maintenance of the power and privileges on which élites can continue to draw."<sup>2</sup>

Yet it was precisely these large properties, removed from the protection of urban centres, which were the focus of bushranging attacks. Throughout the period under study colonial newspapers were full of reports of the "great state of anxiety and alarm" occasioned by bushrangers.<sup>3</sup> At times, particularly during Davey's administration and in the mid-1820s, the scale of bushranging had a profound impact on convict society. Settlers were driven in from the interior, farm houses were provided with loopholes and Governors were bombarded with pleas for parties of soldiers to be billeted in outlying districts.<sup>4</sup> But perhaps the most important affect was the uncertainty which bushranging engendered. In the early 1820s, the district constable at Swanport, Adam Amos, recorded the sighting of two suspected bushrangers in his diary. He lamented that the neighbouring settler, George Meridith, was away in Hobart, for "there is no one that I can put much trust in".<sup>5</sup> Amos was referring to the remaining able-bodied male population, which consisted almost entirely of assigned servants. For the truth was that when the bushrangers came to pay a visit the notion of the "safe" convict was sorely tested.

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<sup>1</sup> Craton, *Testing the Chains*, p.16.

<sup>2</sup> Newby, 'The Deferential Dialectic', p.146.

<sup>3</sup> *Cornwall Chronicle*, 13 May 1843.

<sup>4</sup> L.L.Robson, *A History of Tasmania: Van Diemen's Land from the Earliest Times to 1855*, Vol. 1, (Oxford University Press, Melbourne, 1983) p.143.

<sup>5</sup> Diary of Adam Amos, 27 April 1823, A.O.T., N.S. 323/1.



While the example of those assignees who defended their master's property was lauded in the colonial press and rewarded by the administration with tickets and pardons, the faith that many employers had previously had in their charges was replaced by profound unease. As Newby observes, workers were passed "safe" solely on the judgement of a social élite which they curtsied and touched hats to in the course of the working day. Thus, such a judgement was based on an appraisal of the workers "on stage" behaviour, so to speak, it said nothing about employees attitudes "off stage", that is, behind the master's back. As Newby argues, deference describes what the master wanted, while quiescence is a better word for what he actually got.<sup>1</sup> When bushrangers struck a property the assignees had to decide how much of their "off stage" behaviour it was prudent to reveal "on stage". There were two extreme options, backing the master and actively repelling the attack, or crossing the floor and joining the bushrangers. Both paths were dangerous. Those who chose to collaborate risked not only being shot in what were often lively engagements, but possible reprisals from the bushrangers and the "back stage" wrath of their fellow servants. Those who threw their lot in with their master's assailants were dicing with the gallows, and if lucky enough to escape the scaffold, Macquarie Harbour and Norfolk Island were the usual retirement homes for bushrangers. Nevertheless, a few did choose this path, swapping their outward deference for total repudiation of all the master stood for. Indeed, on at least one occasion a party of bushrangers had to forcibly restrain two assigned servants from shooting the owner of the house in his living room. The *Gazette* reported the actions of another assignee as follows: "When the .. (bushrangers) came to rob his master's house he ardently joined them, dressed himself in his master's clothes, and sat himself down in his chair as lord of the house."<sup>2</sup> Such events remained long in the memory, they exploded the myth of the deferential worker demonstrating that every assignee was a potential threat.<sup>3</sup>

The point is well illustrated by the petition of the North-East settler, John Batman, to Governor Arthur in December 1833. Batman held extensive sheep walks in the Ben Lomond district and employed 63 people on his property of whom 22 were convicts. The early 1830s are usually considered as a quiet period in the life of the island's bushranging history and Arthur had withdrawn the troops and the constable formerly stationed for Batman's protection. The latter was considered a vulnerable target on account of the part he had played in the apprehension of Matthew Brady. However, as Batman explained in his letter, "this being the most exposed part of the district, and no

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<sup>1</sup> Newby, 'The Deferential Dialectic', p.142.

<sup>2</sup> *Hobart Town Gazette*, 25 August 1827.

<sup>3</sup> See Newby, 'The Deferential Dialectic', p.144.

land being located between my farm and the South East coast (the whole formed) an immense extent of Country, and an unmolested retreat for bushrangers."<sup>1</sup> What concerned Batman was not so much the level of bushranging, which he felt was on the increase, but the fact that one of his own assigned servants had joined "two armed runaways." He considered that in the light of this circumstance no faith could be placed in his remaining convicts, and despite the fact that his free workers out-numbered the unfree by a ratio of two-to-one he still thought that he required the services of at least a local constable. Ideally, however, he wished for the return of the military post: "I therefore take the Liberty of Soliciting your Excellency that you will be pleased to grant me the protection I formerly enjoyed."<sup>2</sup>

However, far from aiding the master and attempting to repel attackers or throwing in their lot with the bushrangers the most usual assigned servant reaction was to do nothing, meekly surrendering as soon as the bushrangers appeared. This posed masters with a problem of a different nature. While they could not prove that their servants had assisted the bushrangers, they could not be sure that they had not. Occasionally the inaction of assigned servants put masters' lives in jeopardy. At nine o'clock in the evening the front door of Philip Pitt's farm at Greenwater Holes burst open. Three bushrangers, John Higgins, Michael Riley and John Hill, rushed into the house and shouted "Don't be afraid".<sup>3</sup> Pitt grabbed an adze and made for the leading assailant, at which point one of the other bushrangers shouted "Fire". A gun was discharged, but Pitt was able to make an escape through a window. Yet what really alarmed the latter was that he had three assigned servants in the house not one of whom had attempted to assist him. At the subsequent Supreme Court Trial, the judge "passed very high eulogium on the conduct of Mr Pitt, the settler, who had endeavoured to defend his property at the risk of his own life, while the conduct of his servants was no less liable to censure...in quietly submitting to the demands of a lawless banditti instead of seconding the efforts of their master." He concluded, "(that) Such servants were subject to no light suspicions...(and) would be looked to and properly disposed of."<sup>4</sup> Where masters and mistresses were physically hurt servants who stood by and did nothing were sometimes severely punished. However, despite the example made of the few, convicts continued to submit in large numbers at the first appearance of the bushrangers. Thus, John Wilson and William Driscoll had no difficulty in tying up

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<sup>1</sup> John Batman to Lieutenant Governor Arthur, 28 December 1833, *A.O.T.*, C.S.O. 46/2.

<sup>2</sup> John Batman to Lieutenant Governor Arthur, 28 December 1833, *A.O.T.*, C.S.O. 46/2.

<sup>3</sup> John Higgins, per *Daphne* (NSW) and *Admiral Cockburn* (VDL) No.141; John Hill, per *Dromedary*. No.174 and Michael Riley, per *Tyne* (NSW) and *Prince Leopold* (VDL) No.88.

<sup>4</sup> *Hobart Town Gazette*, 3 February, 1821.

twelve assignees when they visited a sawing establishment at Swan Bay on the Tamar River. On another occasion Francis Fitzmaurice and John Smith bound up eight assignees when they attacked Mr Johnson's property at Green Ponds.<sup>1</sup> Night attacks on large properties also engendered alarm amongst the landed élite. This was a problem unique to the large estate with its emphasis on proper master servant relations. While a few domestic assignees were sometimes quartered in the house using the back stair and the servants' entrance, it was usual practise to house convict workers in separate accommodation removed from the main farm buildings. In these circumstances masters could not ascertain the degree of resistance or support besieging bushrangers received from their own workers. Where their attackers had little difficulty in entering the house they naturally suspected the worst.

A habit of the bushrangers was to use assigned servants as porters, carrying stolen property and provisions away from raided farms and estates to safer locations. Masters' suspicions were raised by the number of such servants, who although marched away at musket point, returned days later unharmed and unable, or unwilling, to give precise accounts of their movements. In 1843 three convicts, Joseph Selby, George Pearse and James Rushbrook, were tried at the Supreme Court in Launceston "with making false representation of the movements of the bushrangers". Despite much evidence that all three had misdirected search parties after their services had been purloined by the bushrangers Jeffs and Conway, they were acquitted for lack of sufficient evidence.<sup>2</sup> It was very difficult to prove that convicts' "off stage" behaviour differed from their "on stage" behaviour but tantalisingly, circumstances suggested that there was much acting in the master's front parlour.

As Genovese comments on North American slave society, time and again questioning slaves failed to elicit information, all professed their ignorance and "the matter assumes the sacredness of a 'professional secret'".<sup>3</sup> Occasionally subsequent events exposed the nature of this secret. When Mr Haywood's house at Macquarie Plains was plundered he was fortunate to escape with his life. In the initial onslaught a shot from one of the five assailants took the shoulder of his coat clean off. Four of the bushrangers were subsequently apprehended at a public house owned by a man named John Ray. Amongst those arrested for harbouring and receiving was a public works convict named Charles Jackson who had been a shepherd to the Haywood's at the time of the robbery. The *Gazette* also noted that another member of the gang, William Buckley,

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<sup>1</sup> *Launceston Examiner*, 8 July 1846 and *Hobart Town Courier*, 30 August 1844.

<sup>2</sup> *Cornwall Chronicle*, 8 July 1843.

<sup>3</sup> Genovese, *Roll Jordan Roll*, p.622.

was recognised by Mrs Haywood. In her words; "Buckley was the third man who attempted to rush in; I kept him out; I knew him well being our servant so long."<sup>1</sup>

For the master this was profoundly un-nerving. Many followed Donald McLeod's lead, and suspecting the worse petitioned for the replacement of their servants. The latter wrote to Governor Arthur as follows:

..relative to my assigned servants who with a few exceptions have all (we have certain reasons to believe that it might be difficult to prove so as to punish) been connected with the bushrangers who have lately made such attacks on us. My wish is that his Excellency would be pleased to take all of these men and women in my service into the employ of the gov<sup>t</sup>. or to assign them on the other side of the country with a few exceptions.<sup>2</sup>

As McLeod's request ran contrary to the regulations governing assignment, Arthur felt unable to comply. He made it clear, however, that if Donald McLeod brought his complaint before a magistrate, and if the charges against any assigned servant were found strong enough to merit punishment, he would ensure that the servant was removed and a replacement speedily delivered. Despite Arthur's reluctance to bend the assignment regulations, subsequent outbreaks of bushranging were followed by similar requests. A written report submitted to Arthur in mid-1834 recommended "the return of the whole of the assigned servants in that part of the country infested by the bushrangers - and their being replaced by men of a similar description (that is similar skill composition) without experience to the settlers from the next arrival of convicts."<sup>3</sup> Arthur eventually rejected this proposal as it would cause great inconvenience, yet, that he was prepared to give such a drastic measure serious consideration is a stark reminder of the disruption bushranging occasioned.

Thus, to recap, those who held positions of power over their own assignees, or more particularly within the convict administration itself, had cause to feel directly threatened by the incidence of bushranging. As George Thomson wrote to Lieutenant Governor Arthur in 1826: "From the information I have received, and which I have no reason to doubt, the Bushrangers have threatened us here as Magistrates, and are determined to pay us a visit".<sup>4</sup> Thomson's concern was no doubt exacerbated by the recent "visit"

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<sup>1</sup> *Hobart Town Gazette*, 16 July 1825 and August 27 1825. For other references to former assigned servants planning robberies and retaliatory raids see *Hobart Town Gazette*, 5 August 1826.

<sup>2</sup> Major Donald McLeod to Governor Arthur, Claggan, 7 September 1829, *A.O.T.*, C.S.O. 1/74/1632.

<sup>3</sup> [Illeg.] to The Colonial Secretary, 1 August 1834, *A.O.T.*, C.S.O. 1/739/17855.

<sup>4</sup> George Thomson to Lieutenant Governor Arthur, 3 January 1826, *A.O.T.*, C.S.O. 46.

paid on his neighbour Mr Haywood by Matthew Brady and eleven others. Haywood had been informed that he had been singled out for special treatment "for getting his men sent to Maria Island."<sup>1</sup> Yet on a wider note, bushranging also placed a question mark over any illusions of stability that the ruling élite might entertain. This had two effects. In the first place it challenged the stereotype of the deferent convict worker, forcing masters to be ever on their guard. For convicts this had a positive spin-off. Every time a party of bushrangers were able to "overwhelm" large numbers of assigned servants, force their way onto a property and threaten those who were perceived to mistreat their servants, the benefit of employing incentives over coercion was reinforced. The answer to the master's predicament was simple and thus the lesson was easily learnt. Convicts might never become "good" servants, but the greater the "bribe" paid out, the greater the chance of achieving some kind of lasting security. On an administrative level, bushranging challenged the ideological function of the law and found it wanting. this testing of the system achieved far fewer positive gains for the bound population. Thus, although it was not the only force responsible, bushranging played a major part in accelerating the growth of Australia's own internal transportation system. While the impact of the evolution of the penal settlement on the history of transportation has yet to be fully evaluated, there can be little doubt that the opening of Port Arthur and the reopening of Norfolk Island considerably strengthened the hand of authority.

### III

#### **"I could not blame the Rangers.."2**

#### **The response of the convict population.**

A theme which has dominated previous discussions of convict responses to the convict system has been the incidence of collaboration. Commenting on the colonial activities of transported political prisoners, McQueen notes, that far from agitating on behalf of the convict population a long list, including Cato Street conspirators and Chartists, joined the ranks of the convict constabulary.<sup>3</sup> He continues "Treachery in its various forms has been noted on the transports and in almost every rebellion. Hardly a protest was planned without it being betrayed."<sup>4</sup> Hirst concurs, finding in the convicts

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<sup>1</sup> George Thomson to A.W.H.Humphrey, 2 January 1826, *A.O.T.*, C.S.O. 46 and *Hobart Town Gazette*, 7 January 1826.

<sup>2</sup> W.Gates, *Recollections of Life in Van Diemen's Land*, (n.p., n.d.) Reprint, G.Mackaness (ed.) (Australian Historical Monographs, Vol.14, Sydney 1961) part 2, p.26.

<sup>3</sup> McQueen, 'Convicts and Rebels', pp.19--26.

<sup>4</sup> McQueen, 'Convicts and Rebels', p.27.

willingness to betray each other further evidence of their generally "'depraved' character".<sup>1</sup>

Despite the implications of the Australian historiography, collaboration was not unique to the convict system. Indeed, as historians of slavery have demonstrated, many a carefully planned revolt was leaked to the authorities on the eve of its execution. The incidence of collaboration cannot be dismissed out of hand, it was clearly a feature common to many unfree societies and deserves serious analysis. Craton framed the question well in his study of Caribbean slave resistance: "One must decide not just why at any given time some slaves rebelled, while others did not, but - most difficult and contentious of all - why, at every stage, some actually collaborated with the dominant class, while others risked all to rebel."<sup>2</sup>

On one level this conundrum is surprisingly easy to unravel. As discussed above, the bushrangers, like all other bonded rebels, embarked on their perilous course with the object of obtaining their liberty. Yet, the incidence of bushranging presented other convicts with a less circuitous path to the same objective.<sup>3</sup> While William Gates claims that he refused to join a search party despite considerable coercion, he relates that two of his compatriots, Aaron Dresser and Stephen Wright, "were compelled to go". Whether force was actually employed to recruit convict special constables is unclear, however, Gate's testimony provides ample evidence of the potential rewards of collaboration. Both Dresser and Wright were granted a full pardon and a free passage home for their part in the apprehension of the bushrangers Jeffs and Conway.<sup>4</sup>

While there were many reasons why a convict might side with the master, for example, fear of punishment, anger at being shot at, or simply deep personal dislike of the bushrangers in question, it is apparent that rewards offered a very powerful incentive.<sup>5</sup> The impact of rewards was not lost on the colonial authorities and by the mid-1820s a free pardon had become the standard indulgence issued to any convict who played a major part in the apprehension of a bushranger. The press were quick to applaud the success of this policy. As the *Colonial Times* put it: "The free pardon rewards have utterly destroyed all connexion between the prisoner population and bush-rangers. Then once their comrades (were it their relatives it would be the same) take to the bush,

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<sup>1</sup> Hirst, *Convict Society and its Enemies*, p.137.

<sup>2</sup> Craton, *Testing the Chains*, p.13.

<sup>3</sup> Korbell, 'Bushranging in Van Diemen's Land, 1824-1834', pp.28-29.

<sup>4</sup> Gates, *Recollections of Life in Van Diemen's Land*, part 2, p.22.

<sup>5</sup> Genovese, *Roll Jordan Roll*, p.623.

the prisoners are looking upon them as the objects by which they are to be restored to freedom". Waxing lyrical the paper continued, "How truly absurd, how mad then is the idea that *another formidable* banditti corps can ever exist in Tasmania. It is too late. The *death-blow* has been given to the system, and when Brady and his party were taken and executed, the star of bushranging went down to rise no more, and sunk below the horizon for ever."<sup>1</sup>

Yet the issue was not quite this simple. While many convicts were prepared to take the short road to liberty and volunteer to join a search party, in doing so they placed themselves at risk from other elements of the convict population. The problem was acknowledged by the *Gazette* in 1826. The paper called on measures to "interrupt that *silent understanding* which so barefacedly subsists between these abominable wretches, (that is bushrangers)...and the distant stock-keepers. Knowing as we do, the influence of taunt and reproach on these men".<sup>2</sup> However, it was difficult to see what further measures could have been implemented. The issue was resurrected in dramatic fashion in the early 1830s. The *True Colonist* reported with alarm, that the latest band of bushrangers to infest the region had been identified. They proved to be four convicts who had volunteered a short period before to join a party in search of the "notorious" Samuel Britton and others. These individuals, all of whom were demoted constables, messengers and watchmen, were at the time under sentence to the roads. According to the *True Colonist*, when they returned unsuccessfully from the hunt, they "were duly *rewarded*, by an order ...to be sent back to the Road Gang - a Gang of the most hardened offenders; by whom they would in all probability have been murdered!!! They *very naturally*, though improperly, absconded; and as a matter of course have ever since lived by plunder."<sup>3</sup>

Clearly, while some convicts did take advantage of rewards, in so doing they became "an object of general aversion".<sup>4</sup> The prevailing reaction to bushrangers is best summed up by the words of the American convict William Gates: "I could not blame the Rangers so much for trying to gain their freedom - for it truly seemed to the convict that every man's hand was against him, and he might be well pardoned for standing out in his own defence".<sup>5</sup> Convicts were not unique in this respect and indeed it is remarkable how closely Gate's sentiments mirror the observations of Genovese: "Oppressed

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<sup>1</sup> *Colonial Times*, 13 July 1827.

<sup>2</sup> *Hobart Town Gazette*, 14 October 1826.

<sup>3</sup> *The True Colonist*, 31 December 1833.

<sup>4</sup> Genovese, *Roll Jordan Roll*, p.622.

<sup>5</sup> Gates, *Recollections of Life in Van Diemen's Land*, part 2, p.26.

peoples cannot avoid admiring their own nihilists, who are the ones most dramatically saying 'No!' and reminding other that there are worse things than death."<sup>1</sup> In Van Diemen's Land, this admiration extended to giving "dobbers" a hard time, a practise which appears to have been extremely widespread. Thus, the two sawyers who shot Hector MacDonald in 1820 had to be removed from Port Dalrymple following the hostile reception they met with from the government boat crew.<sup>2</sup> Likewise, Arthur Duggan, and his assigned servant John Cowan, both of whom had played a considerable part in the eventual capture of Matthew Brady and others, complained to Governor Arthur of the many enemies they had made. The local magistrate wrote on the bottom of the memorial that "Duggan is anxious to leave the country which I believe is now no place of safety for him or his brother".<sup>3</sup> Indeed, as the above example demonstrates, it was not only convicts who feared retribution for the part they had played in the apprehension of bushrangers and many a respected settler was forced to tread a wary step. When Lawrence Murray, "who had rendered the community an essential service" in his efforts to apprehend Brady *et al*, was abused and threatened, The *Colonial Times* commented: "This is an enormity so commonly exercised, by the worst characters in the island, and tends, so materially, to check the intensions of the well disposed, that we should rejoice to see the Magistrates armed with power, to punish, with its deserving severity, a crime so general, and so vitally injurious to the peace and safety of the people."<sup>4</sup>

Yet, no matter how infrequent collaboration actually was and how common the corresponding rate of retribution, the emphasis with which the literature has stressed the incidence of the former is not entirely misplaced. It is worth remembering that it only took one convict to break ranks to damage the hopes and aspirations of the rest.

For those attempting to seek an understanding of convict society, the problem is not so much the rate of collaboration, but the failure of bushranging to translate into open revolt. Despite the fears of the colonial administration and the landed élite, in its long history, bushranging never seriously challenged the hegemony of the colonial administration. In part this failure was due to the bushrangers *modus operandi*. It was not numbers which allowed Matthew Brady to evade the attentions of upwards of four hundred troops and 150 special constables, but manoeuvrability and local support.

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<sup>1</sup> Genovese, *Roll Jordan Roll*, p.629.

<sup>2</sup> *H.R.A.*, III, 3, p.115.

<sup>3</sup> E.Fitzsymonds, *Fitzsymond's Looking Glass for Tasmania: Letters Petitions and Other Manuscripts Relating to Van Diemen's Land 1808-1845*, (Sullivan's Cove, Adelaide, 1980) pp.81-82.

<sup>4</sup> *Colonial Times*, 26 January 1827.



Despite the rugged nature of much of the interior, a large group of convicts would not have been able to remain out for long without avoiding an open confrontation with a better equipped, superior force. Numbers also posed severe logistical problems, creating demands for better supply networks and/or increased raiding activity, both of which jeopardise the already precarious nature of bushranging. The reports that Matthew Brady led a hundred convicts under arms were gross exaggerations. If their numbers had amounted to anything like this Brady's impact would have been more dramatic, but his career would have been considerably shortened.<sup>1</sup> Indeed the only band of bushrangers discovered in the course of this project which numbered over twenty, (that is, the twenty-one convicts who broke out of Deloraine probation station in 1846) splintered after 48 hours in an attempt to evade their pursuers.<sup>2</sup>

Yet, this only partially answers the question. The thorny issue which remains is why, given the high esteem the general convict population appears to have held for the bushrangers, was recruitment sporadic and attempts to escalate action, nonexistent? The answer would again appear to lie with Genovese. Following Hobsbawm, he argues that slaves "like oppressed peoples everywhere, have glorified their badmen and preferred to see them as bad only by those unjust white standards which they have had the strength and the courage to defy."<sup>3</sup> Yet, like the bushrangers, those slaves who stood up to the system and tackled authority head on were also recognised as dangerous outsiders. They threatened the lives of all those who associated with them and while they were admired and celebrated "they had to be sacrificed whenever the business of living needed to be pushed forward."<sup>4</sup> The key to the convict population's relationship with the bushrangers can be found in their own slang for the man who refused to bend, an "out and outer".<sup>5</sup> Such men had their value. As Alan Atkinson has phrased it: "...when any single convict stood up for shared principle it was as if he declared (looking about him), 'I *rebel* - therefore we *exist* '."<sup>6</sup> The bushranging tradition provided convicts with a degree of dignity, an affirmation of their inner most aspirations. That is, a desire to reverse the tables of paternalism which few dared to

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<sup>1</sup> Korbell, 'Bushranging in Van Diemen's Land', p.1.

<sup>2</sup> Report of Capital Convictions before the Supreme Court at a Session of Gaol Delivery holden at Launceston, 7 January 1846, A.O.T., C.S.O. 20/17. The twenty-seven convicts named in Macquarie's declaration appear to have belonged to at least two groups of bushrangers operating independently.

<sup>3</sup> Genovese, *Roll Jordan Roll*, p.626.

<sup>4</sup> E.Genovese, *Roll Jordan Roll*, p.630.

<sup>5</sup> According to Lempriere this is genuine "Vandiemian parlance", T.L.Lempriere, *The Penal Settlements of Van Diemen's Land*, (Manuscript 1839), (Royal Society of Tasmania, Launceston, 1954) p.51.

<sup>6</sup> Atkinson, 'Four Patterns of Convict Protest', p.50.

openly voice.<sup>1</sup> Amongst the convict population there was no greater shared principle than the belief in freedom. The convicts celebrated their bushranging heroes in song, in their oral tradition and occasionally in written word. They created their own mythology of convict resistance glossing over outrages like the assault and rape perpetrated on the wife of the shepherd John Everitt.<sup>2</sup> Instead their stories concentrated on those daring attacks against authority which portrayed the bushranger as the self-righter of the convicts wrongs, the voice-piece of a convict "moral economy". Most were prepared to protect the bushrangers through their silence and a significant number exacted retribution on those who turned informer, or collaborated in other ways with the colonial authorities. Fewer still, pushed their support as far as manning the "bush telegraph" and supplying shelter equipment and other supplies (sometimes in return for payment in stolen property). Very few were prepared to exchange their own chance of a legitimately gained freedom for the bushranging dream of a fought for liberty.

Living within the system, touching hat and waiting for the ticket of leave may have been a degrading experience, but it was far safer than open displays of defiance. In the interests of living, "off stage" behaviour had to be carefully concealed from the eyes of the convict managers. Yet, convict counter-attacks had an important function, providing the servile with a degree of dignity, and more poignantly, with the power to improve their day to day working conditions. As E.P.Thompson has argued: "The anonymous threat, or even the individual terrorist act, is often found in a society of total clientage and dependency, on the other side of the coin from simulated deference."<sup>3</sup> In short, they are necessary reminders that the employment of incentives over coercion is a safer management strategy. The bushrangers fulfilled both functions. The man who proclaimed his hostility to the regime in full view of all, was an object of admiration and a source of pride for all who suffered subjection. Yet the bushrangers also spared the convict population the risk of firing their own warning shots across the bows of their masters. Throughout their careers, Brady, Britton, Cash and Westwood *et al* were used as conducting rods, easing the material and psychological load of the unfree. However, they were rods which ultimately had to be abandoned. The bushranging experience itself underscored the utter hopelessness of open revolt, it was quite simply too expensive a game for all but the most exceptional and desperate to engage in. Thus as the *Gazette* reported in December 1825 , when three bushrangers, Murphy, Cody

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<sup>1</sup> Craton reaches a similar conclusion in his discussion of the slave populations reaction to Maroon communities in the Caribbean. Craton, *Testing the Chains*, p.15.

<sup>2</sup> *Hobart Town Gazette*, 29 November 1839.

<sup>3</sup> E.P.Thompson, 'Patrician Society Plebian Culture', *Journal of Social History*, Vol.7, No.4 (1974) p.399.

and Brown stopped on the Bagdad road to talk to a construction gang "they called on the men...and asked them one by one to join them, but all unanimously refused".<sup>1</sup>

## IV

### Conclusion

In conclusion, the convict system which governed the lives of Australia's unfree workers was a sophisticated apparatus. This thesis has sought to attain an understanding of how that system functioned through an analysis of the data pertaining to a small minority of convicts, the bushrangers. Many of the findings of this investigation have under-scored the observations of Steve Nicholas *et al* contained in their own challenging re-interpretation of Australia's convict history.

To summarize, the men women and children transported to Van Diemen's Land and New South Wales were not drawn from a distinct sub-class of professional criminals, but were broadly representative of the early nineteenth century working population of the British Isles. Rather than a surplus prison population shifted from one gaol to another, Australia's transportees were migrants removed under a special form of contract which invested property rights in labour power with the British Crown. The manner in which incoming convicts were allocated to job openings was not conducted in a haphazard manner, as has been implied by some historians, but on the basis of the occupational data supplied in the indents and the demands of the colonial economy. Within that economy, labour was extracted from labour power, not by the indiscriminate use of the lash, but through the balancing of negative and positive incentives at the margin. This applied both to the organisation of labour within the work place, and on a much larger scale, to the operation of a multi-tiered system of punishment and reward which intertwined penal objectives with the labour extraction process. Finally, this system was held together through the use of ideology rather than outright terror.

The hegemony of the convict managers may have been entrenched in the law and the military and civil forces at the disposal of the Crown, but these instruments of physical coercion played a subsidiary role in the maintenance of order and authority. The managers preferred the use of paternalist rule to the overt use of force, as they were interested not in maintaining power at all costs, but power in conjunction with

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<sup>1</sup> *Hobart Town Gazette*, 31 December 1825.

production. The rate of production was dependant upon stability and stability was achieved through a system of promotions and demotions designed to inculcate a philosophy of dependence. Individual convicts were encouraged in the belief that the shortest path to liberty lay in co-operation. Embedded deep within the heart of co-operation was an explicit acceptance of the penal society's order of being. This thesis has sought to demonstrate that whereas the convict managers were successful in this objective, the deference they received from their workforce was largely, if not wholly, simulated. That is, they gained acquiescence rather than mute obedience. Further, many convicts attempted to play their employer's game to their own advantage. They used the structure of paternalism to up the ration differential and engineer the firing of junior officials in defence of a convict "moral economy". Thus, many transportees succeeded in moulding their own environment, an achievement which runs contrary to the established historiography's depiction of a voiceless convict rabble. However, it is important not to overestimate this convict success, it was one which ultimately served to strengthen those invisible ideological shackles which bound the prisoner within a system of naked economic exploitation.

A small minority of convicts, around whose lives this thesis has been fashioned, also indulged in games. While the stakes they played for were extremely high, the game itself was subtle. In essence, it was constructed out of the convict experience and its objective was to produce a mirror image of the ideology of the convict's exploiters. This was most graphically illustrated by the bushrangers' imitation of the magistrates bench. When masters and officials were "tried" at gun-point, the verdicts awarded by these summary "courts" drew upon the testimony of convict employees in self-evident emulation of the masters' own apparatus of power. As with other features of the bushrangers' *modus operandi*, the object of the exercise was not to play the masters' game to the convicts' best advantage, but to inflict long-term damage on the local exercise of power. In this objective, the bushrangers were spectacularly successful and this is evidenced by the pleas of masters to have their assignees replaced in the wake of bushranger-inflicted humiliation. The exercise of paternalism is dependent upon authority and in the course of the history of convict bushranging many masters had that authority shattered. To be forced to enact rituals devised by external parties is merely degrading, to be made to do so in front of the estate hands was utterly humiliating and humiliation is a great deflater authority.

This explains why the levels of bushranger inflicted violence remained low. While encounters between bushrangers and military and civilian search parties often produced

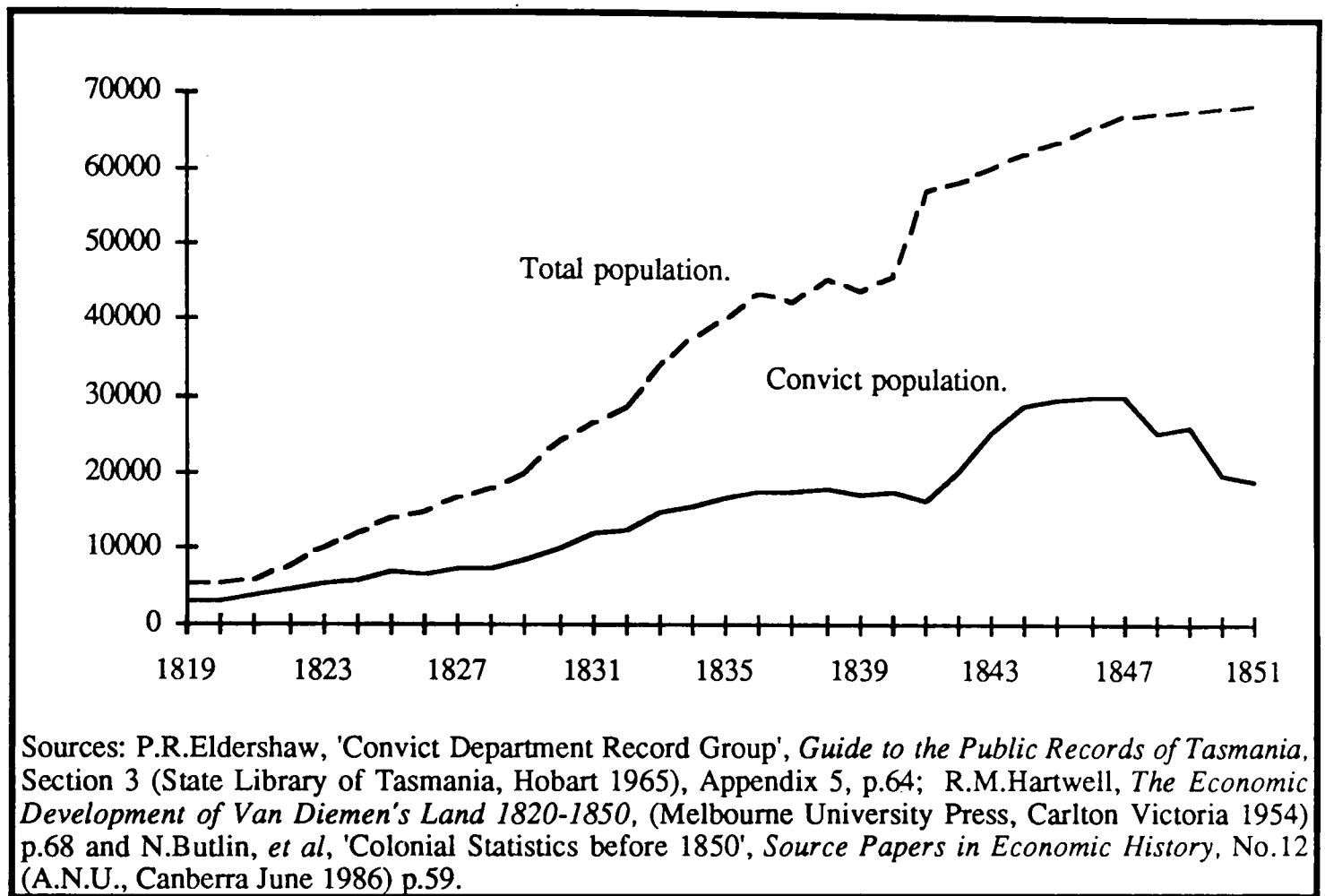
lively engagements, there is no evidence that any bushranging gang ever pursued a policy of systematic extermination of the ruling élite. There was no need to shoot masters, humiliation satisfied the need for vendetta and had far greater ideological implications than the infliction of callous reprisals. On the whole, the bushrangers restricted their own use of outright terror to informers and the latter were dealt with in the context of a different set of rituals. For example, Brady's victims were bound, knelt down, asked to say a prayer and then shot through the back of the head. However, this mode of operation was directed not against convict masters, but to serve a warning to other would-be informers located within the bushrangers' support base. It is important not to confuse inter-convict intimidation with employer humiliation.

Previous historians of Australia's convict era have correctly ascertained that in the long run bushranging did not directly threaten the distribution of power relationships in Eastern Australia. Of all the scattered bushranging movements, none involved more than a handful of convicts and despite the fears of masters and the colonial administration, all failed to snowball into a general convict uprising. However, they are wrong to assume that this failure can be directly attributed to the composition of Australia's convict labour force. Contrary to the assertion of historians, the rate of collaboration and informing which characterised master-servant relations in early white Australia is not directly correlated with the "criminal" attributes of the workforce. These are characteristics common to most, if not all, unfree labour systems. Indeed, descriptions of the convict system which dwell on the brutality of the work regime rest precariously beside portrayals of the convict population which stress the latter's disinclination to rebel. If convict life in Eastern Australia had been truly "nasty, brutish and short", the rate of rebellion would have been far greater than that historically observed. Some systems of organising labour are less stable than others. Sugar cultivation is a case in point and the work of Craton and Gaspar has demonstrated that those systems which rely heavily on the use of negative sanctions are prone to volatile explosions of unrest. This is because the effective deployment of paternalist rule is dependent upon the payment of performance bribes dressed up as largesse. In the absence of largesse, the hierarchical diffusion of power becomes inflexible, owners have less room to manoeuvre and the limits of paternalism are more frequently exposed. In the convict system this impasse was reached many times in many individual work locations, as the incidence of bushranging testifies. However, due to the organisation of production, these rebellions remained localised. In plantation economies, where thousands of workers are employed in similar conditions, the incompatibility of paternalist rule and the heavy reliance on negative sanctions produced

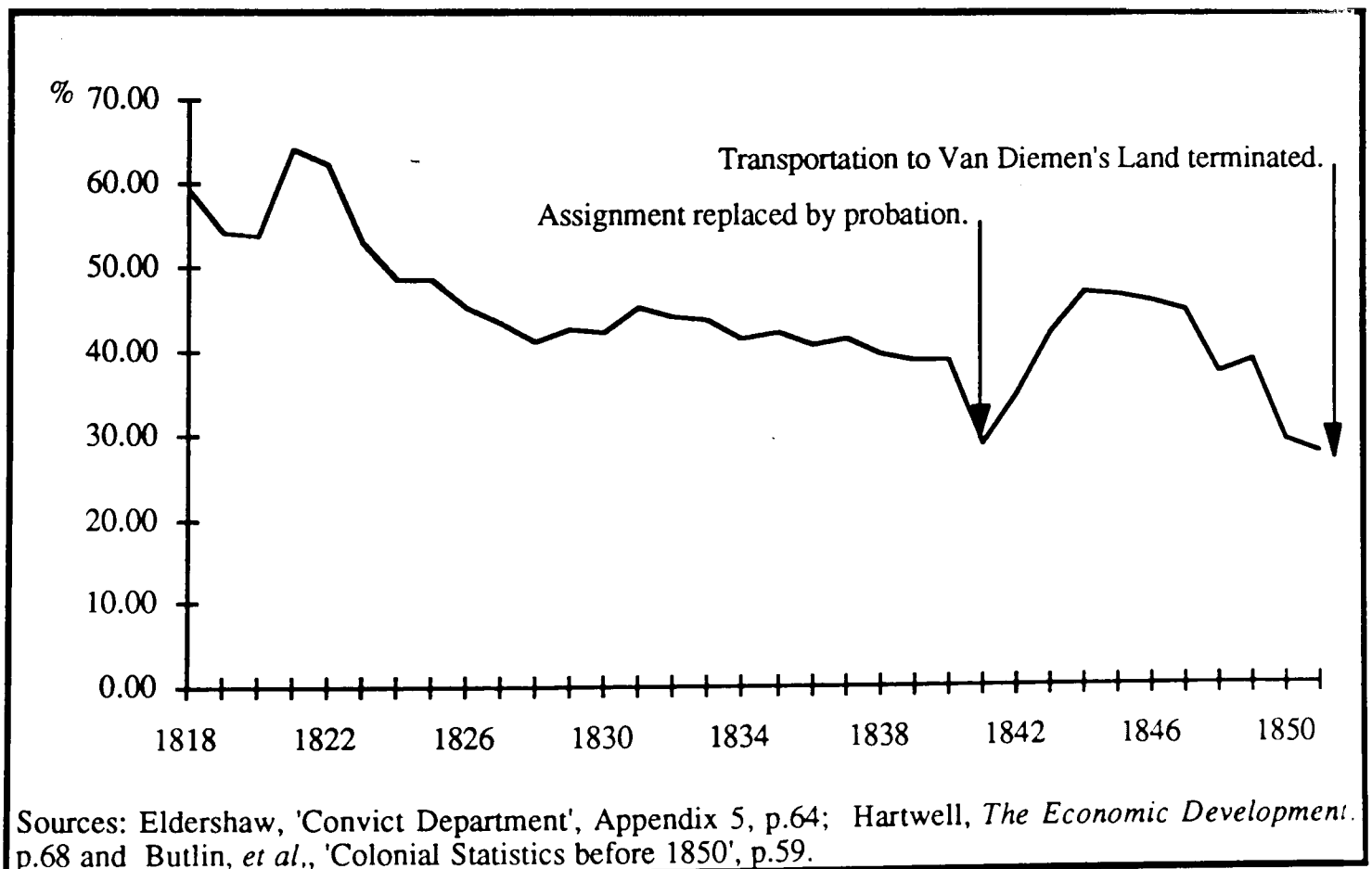
much wider problems for the ruling élite. The lack of rebellion in Eastern Australia stands testimony, not to the peculiar nature of the labour supply, but to the stability of the labour extraction process. Given the complexities of the convict authorities' remit this was a considerable achievement, an achievement which the literature has considerably underestimated.

## Appendix 1

### The Convict Population of Van Diemen's Land 1818-1851.

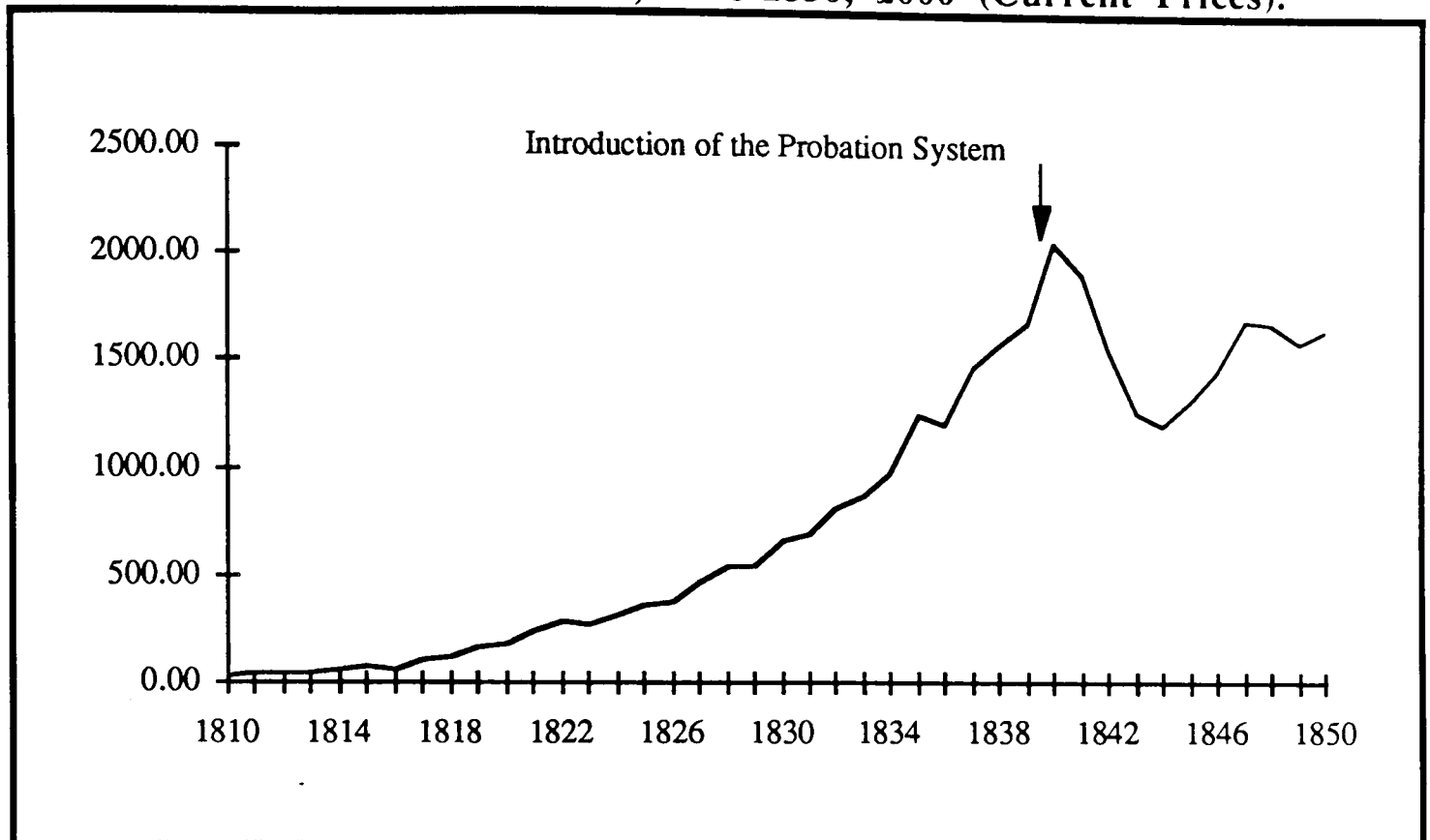


### Convict Population as a Percentage of the Free Population.

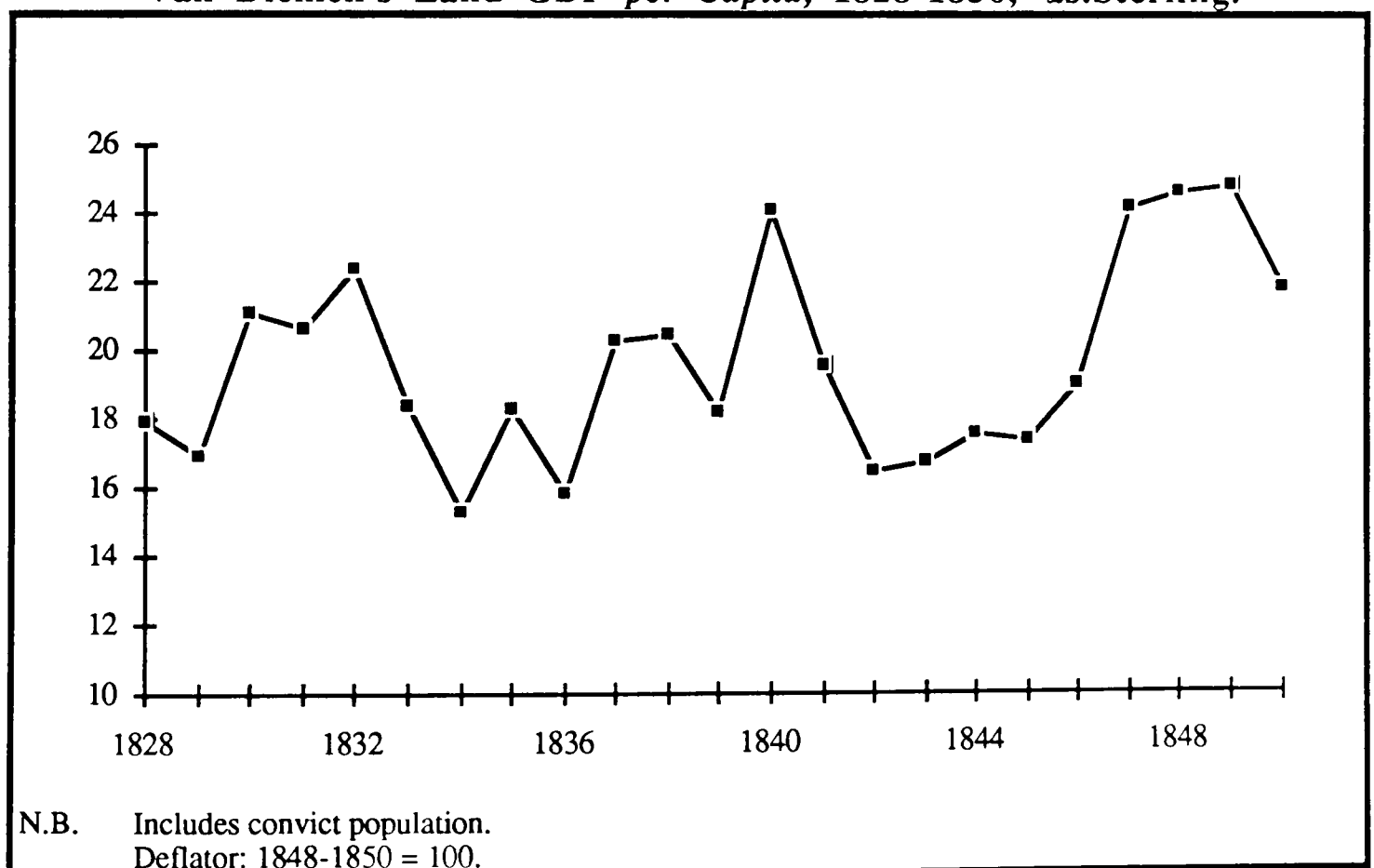


## Appendix 2

**Van Diemen's Land GDP, 1810-1850, £000 (Current Prices).**



**Van Diemen's Land GDP per Capita, 1828-1850, £s. Sterling.**



Sources: N.G. Butlin and W.A. Sinclair, 'Australian Gross Domestic Product 1788-1860; Estimates Sources and Methods', *Australian Economic History Review*, Vol.26, No.2 (1986) pp.133-134, 137-142 and 142; N.G. Butlin, 'Contours of the Australian Economy 1788-1860', *Australian Economic History Review*, Vol.26, No.2 (1986) pp.112-113 and N. Butlin, *et al*, 'Colonial Statistics before 1850', *Source Papers in Economic History*, No.12 (A.N.U., Canberra June 1986) p.59.



### Appendix 3.

#### Manufacturing and Primary Industry in Private Ownership, 1835.

District	Description	Number	1	2	3
<i>Hobart</i>	Saw mills	2			
	Shipwrights	4			
	Mast Black and pump maker	1			
	Sail makers	3			
	Rope makers	1			
	Steam and water mills	11			
	Engineering works and foundries	9			
	Cart and plough manufacturers	10			
	Coach makers	2			
	Cooperages	2			
	Potteries	1			
	Breweries and distilleries	11			
	Candle manufacturers	2			
	Dyers	3			
	Woolstaplers	3			
	Soap boilers	1			
	Snuff manufacturers	1			
	Tanneries	9			
	Comb makers	1	336	600	420
<i>Launceston</i>	Flour mills	4			
	Breweries and distilleries	3			
	Quarries	4			
	Tanneries	3	226	1140	254
<i>George Town</i>	Quarries	1			
	Flour mills	1	14	55	0
<i>Campbell Town</i>	Quarries	12			
	Flour mills	6	190	2110	20
<i>Norfolk Plains</i>	Flour mills	5	37	454	17
<i>Oatlands</i>	Corn mills	2	(?)	504	109
<i>Hamilton</i>	Quarries	2			
	Flour mills	1	39	530	52
<i>New Norfolk</i>	Quarries	4			
	Flour mills	3	(?)	380	7
<i>Richmond</i>	Lime Kilns		2		
	Flour mills	7	61	620	38
<i>Great Swan Port</i>	Quarries	1			
	Flour mills	1	(?)	179	4
<i>Bothwell</i>	Flour mills	2	(?)	686	24
<i>Brighton</i>	Lime Kilns		2		
	Flour mills	4	88	734	70
<i>Westbury</i>			0	324	110
<i>Circular Head</i>			0	142	7
<b>Total recorded employment</b>			991	8458	1132
Notes: 1= Total employment by district in manufacturing and mining (convict and free). 2= Total employment by district in agriculture (convict and free). 3= Total employment by district in commerce (convict and free).					
Sources: 'Return of Population' and 'Return of Manufacturies, Mines and Fisheries', T.S.A. C.S.O. 50/10 (1835)					

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